

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

Criminal Application (APPA) No. 470/2017

In

Criminal Appeal NO. 284 OF 2017

Jaideo s/o Mirnal Mirda **V/s** State of Mah., Thr. Police Station Officer, Goregaon,
Tah. Goregaon, Dist. Gondia.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. D.B. Patel, Advocate for Appellant.
Mr. R.S. Nayak, A.P.P. for Respondent/State.

CORAM : KUM. INDIRA JAIN, J.

DATED : 03/11/2017

Heard Shri D.B. Patel, learned counsel
for applicant-appellant and Shri R.S. Nayak,
learned Additional Public Prosecutor for
Respondent/State.

By this application under Section 389 of
the Code of Criminal Procedure, applicant/accused
is seeking suspension of substantive sentence of
imprisonment imposed by the learned Sessions
Judge, Gondia, vide judgment and order dated
18/05/2017 in Session Trial No.117/2013. By the
said judgment and order accused is convicted of
the offence punishable under section 376 of the
Indian Penal Code and sentenced to suffer

rigorous imprisonment for seven years with fine of Rs.1000/-, in default rigorous imprisonment for one month.

With the assistance of the learned counsel for the parties, perused the evidence of prosecutrix and medical officer. It is not in dispute that the at the relevant time prosecutrix was major. Medical evidence does not fully support the case of prosecution. Chemical Analyst's report is in the negative.

Considering the evidence of star witnesses, term of sentence imposed by the trial Court and applicant was on bail during trial, this court is inclined to allow the application. Hence the following order.

ORDER

(i) The substantive sentence of imprisonment is suspended on applicant's furnishing personal bond in the sum of Rs.15,000/- with one solvent surety in the like amount to the satisfaction of the trial Court.

(ii) Criminal application is allowed and disposed of accordingly.

JUDGE

Nandurkar