

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

CRIMINAL APPLICATION (APPA) NO.496 OF 2017

IN

CRIMINAL APPEAL NO.295 OF 2017

Kishor s/o Sakaru Rathod

..vs..

The State of Maharashtra, through P.S.O., Police Station Kondhali, District
Nagpur

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

Court's or Judge's Order

Shri C.R. Thakur, Counsel for the applicant.

Ms T.H. Udeshi, Addl.P.P. for the non-applicant/State.

CORAM : V.M. DESHPANDE, J.

DATED : JULY 6, 2017.

Heard learned counsel Shri C.R. Thakur for the
applicant and learned Additional Public Prosecutor Ms T.H.
Udeshi for the non-applicant/State.

This Court on 4.7.2017 admitted the present appeal
and application for consideration of bail was kept today since at
the time when the applicant was taken into custody by learned
Judge of the Court below, on the said day entire copy of
judgment convicting the applicant was not furnished to learned
counsel for the applicant.

Learned counsel Shri C.R. Thakur for the
applicant submits that now he has received the certified copy of

judgment and order of conviction and the same will filed with the Registry of this Court.

I have perused judgment and order of conviction passed by learned Special Judge, Nagpur on 28.6.2017 in Special Child Protection Case No.106 of 2013.

By the impugned judgment, the applicant is convicted for the offence punishable under Section 8 read with Section 7 of the Protection of Children from Sexual Offences Act, 2012 and also for the offences punishable under Sections 323 and 452 of the Indian Penal Code.

For the offence punishable under Section 8 read with Section 7 of the Protection of Children from Sexual Offences Act, 2012, the applicant is directed to suffer rigorous imprisonment for 3 years and 6 months and to pay fine of Rs.25,000/- and in default of payment of fine amount he shall suffer rigorous imprisonment for 6 months.

For the offence punishable under Section 452 of the Indian Penal Code, the applicant is directed to suffer rigorous imprisonment for 1 year and to pay a fine of Rs.9,000/- and in default of payment of fine amount he shall suffer rigorous imprisonment for 2 months.

Insofar as offence punishable under Section 323 of the Indian Penal Code is concerned, the applicant is directed to rigorous imprisonment for 6 months and to pay a fine of

Rs.1,000/- and in default of payment of fine amount he shall suffer rigorous imprisonment for 15 months.

Learned Judge of the Court below has directed that all substantive jail sentences shall run concurrently.

It is stated by learned counsel for the applicant that applicant was on bail during trial.

Looking to the quantum of punishment of only three years and 6 months and in view of the fact that in near future there is a little chance of appeal being taken for final hearing, I exercise my discretion in favour of the present applicant, by passing the following order:

The criminal application is allowed.

Substantive jail sentences, as imposed upon the present applicant by learned Judge of the Court below, in Special Child Protection Case No.106 of 2013, stand suspended during the pendency of the present appeal.

The applicant shall be released on bail on he executing a P.R. Bond of Rs.5,000/- with one solvent surety.

The applicant is directed to deposit all entire fine amount before the Court below.

The Court below is directed to ensure that before executing bail bonds and before releasing the applicant on bail, entire fine amount has deposited with the Court below.

The applicant is directed to remain present

personally at the time of final hearing of the appeal.

**With this, the criminal application is allowed and
disposed of.**

JUDGE

!! BRW !!