

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

CRIMINAL APPEAL NO.305 OF 2017

Mangesh s/o Madhukar Raut

..vs..

The State of Maharashtra, through Police Station Officer, Post Station Virur,
Taluka Rajura, District Chandrapur

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

Court's or Judge's Order

Shri Anuj Hajare, Counsel for the appellant.

Shri N.B. Jawade, Addl.P.P. for the respondent/State.

CORAM : V.M. DESHPANDE, J.

DATED : AUGUST 3, 2017.

Heard learned counsel Shri Anuj Hajare for the
appellant.

ADMIT.

Learned Additional Public Prosecutor Shri N.B.
Jawade waives service on behalf of the respondent/State.

Criminal Application (APPA) No.518 of 2017

This is an application for suspension of
substantive jail sentence and for grant of bail.

The applicant is convicted by learned Additional
Sessions Judge at Chandrapur in Special (POCSO) Case No.24 of

2015 dated 7.6.2017 for the offence punishable under Section 354A(1)(i) of the Indian Penal Code, 1860 and is directed to suffer rigorous imprisonment for 1 year and to pay a fine of Rs.2,500/- and in default of payment of fine amount to suffer simple imprisonment for 1 month. He is also convicted for the offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012 and directed to suffer rigorous imprisonment for 3 years and to pay a fine of Rs.2,500/- and in default of payment of fine amount to suffer simple imprisonment for 1 month.

I have perused copies of depositions which are annexed along with the application for bail. I have also heard learned Additional Public Prosecutor Shri N.B. Jawade for the non-applicant/State.

According to PW1 victim, the offensive act of the applicant is that the applicant holding her hand and pressing her mouth.

The prosecution has also examined PW4, the uncle.

From the evidence, *prima facie*, appears that version of the victim, that the present applicant pressed her mouth by his hand, is not corroborated.

The applicant was on bail, even after the conviction, learned Judge of the Court below has exercised his discretion under Section 389(3) of the Code of Criminal

Procedure, 1973 and released the applicant on bail, is the submissions made by learned counsel for the applicant. Further, the present application is on affidavit. The applicant has already deposited the fine amount.

Looking to nature of the evidence and looking to the fact that the applicant was on bail during the Trial and in near future it will not be possible for this Court to hear the present criminal appeal finally, I exercise my discretion in favour of the present applicant. Hence, I pass the following order:

ORDER

- i) The criminal application is allowed.
- ii) The conviction, imposed upon the present applicant by learned Additional Sessions Judge at Chandrapur in Special (POCSO) Case No.24 of 2015 dated 7.6.2017, shall remain suspended during the pendency of the present appeal.
- iii) The applicant be released on bail on his executing fresh bonds of the same amount.
- iv) The applicant shall personally remain present before this Court at the time of final hearing of the

present appeal.

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

JUDGE

!! BRW !!