

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

**CRIMINAL APPLICATION (APPA) NO.532 OF 2017**  
**IN**  
**CRIMINAL APPEAL NO.318 OF 2017**

**Arunkumar s/o Mahadeoji Dange**  
**..VS..**  
**State of Maharashtra, through P.S.O. Kardha, District Bhandara**

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

Court's or Judge's Order

Shri Anand Parchure, Counsel with Shri S.A. Chaudhari, Adv. for the  
applicant.  
Ms T.H. Udeshi, Addl.P.P. for the non-applicant/State.

**CORAM : V.M. DESHPANDE, J.**  
**DATED : JULY 31, 2017.**

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

Heard learned counsel Shri Anand Parchure with  
Advocate Shri S.A. Chaudhari for the applicant, *in extenso* and  
perused the record and proceedings which were called for  
consideration of this application for bail.

Applicant, who is accused No.5 in Special Criminal  
(Child) Case No.03 of 2015, is convicted by learned Special Judge  
at Bhandara on 5.7.2017.

The applicant is convicted for the offences

punishable under Sections 313 and 315 read with Section 34 of the Indian Penal Code, 1860 and is directed to suffer rigorous imprisonment for 4 years and to pay a fine of Rs.2,000/- and in default of payment of fine amount to suffer rigorous imprisonment for one month. Learned Judge of the Court below directed that both sentences shall run concurrently.

After perusal of the record and proceedings, *prima facie* it appears to this Court that the age of the victim is not strictly proved by the prosecution. In view of the decision of the Division Bench of this Court in the case of Ravi Anandrao Gulpude .vs.. State of Maharashtra, reported at 2017 ALL MR (Cri) 1509, it is the bounden duty of the prosecution to prove the age strictly in view of stringent provisions under the Prevention of Children from Sexual Offences Act, 2012.

Exhibit 73, a Register which is duly maintained by the applicant while conducting his profession as a doctor, shows that the age of the victim is 18 years and she was admitted in the hospital for stomach ache and for excessive bleeding during her periods.

The applicant was on bail during the course of the Trial. He is a doctor. Therefore, there is no possibility that the applicant will run away from the Courts of justice.

Looking to the nature of evidence, as available on record, and in view of the fact that the applicant was on bail and

this Court also released other accused except main accused on bail, I see no reason not to exercise discretion in favour of the applicant. Hence, I pass the following order:

**ORDER**

- i) The criminal application is allowed.
- ii) Substantive jail sentence, imposed upon the applicant, shall remain suspended during the pendency of present criminal appeal.
- iii) The applicant shall be released on bail on he executing a P.R. Bond in the sum of Rs.50,000/- (rupees fifty thousand only) with two solvent sureties.
- iv) Learned Judge of the Court below, before whom the bail bond is to be executed, to ensure that entire fine amount is deposited by the applicant before the applicant is released on bail.
- v) The applicant is directed to surrender his passport if any before the Sessions Court.
- vi) The applicant shall personally remain present

**before this Court at the time of final hearing of the criminal appeal.**

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

**JUDGE**

**!! BRW !!**