

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

CRIMINAL APPLICATION [APPA] NO.660 OF 2017

IN

CRIMINAL APPEAL NO.389 OF 2017

(Rambhau Sukhdeo Gawali

vs.

The State of Maharashtra, through P.S.O. Chandur Bajar, Amravati)

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

Court's or Judge's Orders

CORAM : KUM. INDIRA JAIN, J.

DATE : 10th OCTOBER, 2017.

By this application, applicant-accused seeks suspension of substantive sentence of imprisonment awarded vide judgment and order dated 06/07/2017 by the learned Additional Sessions Judge, Achalpur in Special (POCSO) Case No.16/2014 thereby convicting the accused of the offence punishable under Section 6 of the Protection of Children from Sexual Offences Act and Section 376(2) of the Indian Penal Code. He is sentenced to suffer rigorous imprisonment for ten years and to pay fine of Rs.1,000/-, in default to suffer rigorous imprisonment for one month.

02] Heard Shri Ashok Bhangde, learned Counsel for applicant and Shri Shyam Bissa, learned Additional Public Prosecutor for the State.

03] The first informant is the maternal uncle of prosecutrix. F.I.R. was lodged on 11/12/2013. Incident occurred on 05/12/2013. According to prosecutrix, accused ravished her thrice at different places. She supports the theory of sexual assault.

04] Prosecution examined PW-5 Ruprao Pande, Headmaster of the School. As per the school record, her date of birth appears to be 28/03/1997. It means, at the time of incident, prosecutrix was around 16 years and 8 months of age.

05] The medical evidence does not show any external or internal injury on the private part of prosecutrix. PW-6 Dr. Naheed Khalid could not give exact opinion about sexual intercourse with the prosecutrix. It appears that clothes of prosecutrix and accused and the samples collected by the Medical Officer were forwarded to Chemical

Analyzer. C.A. Reports are in the negative and do not corroborate the version of prosecutrix.

06] Learned Counsel for applicant submits that accused is in jail since 11/12/2013.

07] Considering medical evidence, C.A. Reports and the period of sentence already undergone by the accused, this Court is inclined to allow the application. Hence, the following order :

ORDER

- I. Execution of substantive sentence of imprisonment is suspended during pendency of appeal on applicant's furnishing P.R. Bond and Solvent Surety in the sum of Rs.15,000/- each to the satisfaction of the trial Court.
- II. Criminal application stands disposed of in above terms.

JUDGE