

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

CRIMINAL APPLICATION (APPA) NO.751 OF 2016
IN
CRIMINAL APPEAL NO.413 OF 2016

(Sunil Ambadas Gawai Vs. State of Maharashtra, thr. P.S.O. Yavatmal (City), Dist.
Yavatmal)

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

Court's or Judge's orders.

Shri Saurabh A. Chaudhari, Advocate for Appellant.
Shri H.R. Dhumale, APP for Respondent/State.

CORAM: ROHIT B. DEO, J.

DATE: 7th SEPTEMBER, 2017.

The applicant is convicted of offence punishable under section 376 (2)(i)(n) of I.P.C. and of offence punishable under section 6 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act') and is sentenced to imprisonment for 14 years and is additionally directed to pay fine.

The applicant was tried along with one Vijay the father of the prosecutrix for the aforesaid offences.

The applicant was managing the 'Tea Stall' of the father of the prosecutrix and it has come on record that he was residing in the same house i.e. the house of accused 2 the father of the minor prosecutrix.

The mother of the prosecutrix and accused 2 had a marital dispute and apparently the custody of the minor was with the accused 2 the father of the prosecutrix.

The accused 1 who is convicted was virtually her *de facto* guardian along with the accused 2. He was living in the same house and dropping/reaching the prosecutrix to her school.

Considering the overall facts and circumstances, I am not inclined to suspend the sentence. The application for suspension of sentence and grant of bail is rejected.

However, since the applicant is in jail since a year, let the appeal be listed on the final hearing board on priority basis.

Shri Saurabh Chaudhari, the learned counsel undertakes to file the paper-book within four weeks. The record and proceedings is received. If the paper-book is filed within four weeks, let the appeal be listed for final hearing in the 2nd week of October, 2017.

JUDGE