

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

Criminal Application (APPA) No. 905/2017
in
Criminal Appeal No. 536/2017.

Mukya @ Mukesh Tukaram Meshram and others **V/s** State of Maharashtra, thr. PSO Ner,
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 V.D. Darne, Advocate for applicants-appellants,
Shri R.S. Nayak, APP for Respondent/State.

CORAM : KUM. INDIRA JAIN, J.

DATED : 31/10/2017

Heard Shri V.D. Darne, learned
counsel for applicants-appellants and Shri
R.S. Nayak, learned Additional Public
Prosecutor for Respondent/State.

By this application under Section
389 of the Code of Criminal Procedure,
applicants/accused nos. 1 and 2 are
seeking suspension of substantive
sentence of imprisonment imposed by the
learned Additional Sessions Judge,
Yavatmal, vide judgment and order dated
12/10/2017 in Special Case (POCSO)
No.42/2015, convicting the applicants of

the offences punishable under sections 363, 366-A read with 34 of the Indian Penal Code.

The learned counsel for applicants submits that applicant no.2 is in jail since last more than two and half years and applicant no.1 was on bail during trial. It is submitted that prosecutrix/victim is hostile and she has not supported the case of prosecution. Submission is that in this situation substantive sentence of imprisonment be suspended.

Per contra, the learned Additional Public Prosecutor submits that accused no.1 was arrested on 04/07/2015 and was released on bail 31/08/2015. It is submitted that considering the nature of offences proved against the applicants, it would not be a fit case to suspend the sentence of imprisonment.

As accused no.2 has undergone substantial period of imprisonment and as accused no.1 was on bail during trial, this

Court is inclined to allow the application.

Hence the following order.

ORDER

(i) The substantive sentence of imprisonment is suspended on each of the applicants furnishing solvent surety and personal bond to the tune of Rs.10,000/- each to the satisfaction of the trial Court.

(ii) Criminal application is allowed and disposed of accordingly.

Criminal Appeal No.536/2017

Heard.

Admit.

Call for record and proceedings.

Shri R.S. Nayak, learned Additional Public Prosecutor for respondent-State waives notice for respondent.

JUDGE