

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

CRIMINAL APPLICATION (APPA) NO.174/2018

IN

CRIMINAL APPEAL NO.117/2018

Ganesh s/o Bapu Yellur

..vs..

State of Mah., thr. PSO PS Aheri, Tahsil Aheri, District Gadchiroli

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

Court's or Judge's Order

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Shri A.C. Jaltare, Counsel for the applicant.

Shri Amit Madiwale, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : MARCH 16, 2018.

1. Heard learned counsel Shri A.C. Jaltare for the applicant and learned Additional Public Prosecutor Shri Amit Madiwale for the State.

2. Present is the application for suspension of substantive jail sentence and for grant of bail.

3. The present applicant is convicted by learned Additional Sessions Judge, Gadchiroli on 3.2.2018 in Special (POCSO) Case No.32/2016 for the offences punishable under Sections 341, 354, and 323 of the Indian Penal Code and under Section 8 of the Prevention of Children from Sexual Offences Act, 2012.

4. Substantive jail sentences imposed upon the applicant are, 6 months for the offence punishable under Section

323 of the Indian Penal Code, 3 months for the offence punishable under Section 354 of the Indian Penal Code, and 3 years for the offence punishable under Section 8 of the Prevention of Children from Sexual Offences Act, 2012. Also, the applicant is directed to pay different fine amounts.

5. It is submission of learned counsel Shri A.C. Jaltare for the applicant that during the course of the Trial, the applicant was on bail, even after the judgment and order of conviction. According to his submission, the applicant moved an application for suspension of substantive jail sentence in order to approach before this Court. The said application is at Exhibit 39. The certified copy of the application along with orders passed thereon is placed on record and marked as document "X" for identification.

6. Perusal of certified copy shows that on 3.2.2018 itself learned Judge of the Court below suspended the jail sentence and released the applicant on bail on P.R. Bond of Rs.15,000/-.

7. It is to be noted that initially, the present application was listed before this Court on 9.3.2018. The appeal is filed within a limitation. However, on 9.3.2018, this Court deferred the hearing of the application since order suspending the substantive jail sentence was not placed on record.

8. Looking to the facts that the applicant was on bail during the course of the Trial and learned Judge of the Court below has already suspended the jail sentences imposed upon the

applicant, I pass the following order:

ORDER

(a) The criminal application is allowed.

(b) Substantive jail sentences imposed upon the applicant, by learned Additional Sessions Judge, Gadchiroli on 3.2.2018 in Special (POCSO) Case No.32/2016 for the offences punishable under Sections 341, 354, and 323 of the Indian Penal Code and under Section 8 of the Prevention of Children from Sexual Offences Act, 2012, shall remain suspended pending disposal of the present appeal.

(c) Applicant-Ganesh s/o Bapu Yellur, be released on the same bail as before the Court below. However, the applicant shall execute a fresh bond before the Trial Court.

(d) The applicant shall remain personally present at the time of final hearing of this criminal appeal.

(e) With this, the criminal application is allowed and disposed of.

JUDGE

!! BRW !!