

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

CRIMINAL APPLICATION NO.198/2018 IN
CRIMINAL APPEAL NO.132/2018

Rajendra @ Rajan s/o Suresh Patel ..vs.. The State of Maharashtra through
PSO P.S. M.I.D.C. Nagpur.

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

Court's or Judge's orders.

Mr. R. K. Patil, Advocate for appellant.
Mr. N. R. Rode, A.P.P. for the respondent-State.

CORAM : V.M. DESHPANDE, J.
DATED : MARCH 9, 2018

1. Heard Mr. R. K. Patil, Advocate for the applicant
and Mr. Rode, learned A.P.P. for the non applicant-State.

2. For consideration of this application, the learned
counsel for the applicant filed a pursis dated 09.03.2018.
Along with the pursis, he wishes to place on record
photocopy of the certified copy of the application moved by
the applicant before the Court below for suspension of
substantive jail sentence and the order passed below it.

The pursis along with the order is taken on
record.

3. The applicant is convicted by the learned
Additional Sessions Judge, Nagpur in Special Criminal
(POCSO) Case No.119/2016. By the said, the applicant is
convicted for an offence punishable under Section 354-A of

the Indian Penal Code and is directed to suffer simple imprisonment for six months. He is also convicted for an offence under Section 7 punishable under Section 8 of Protection of Children From Sexual Offences Act and on that count he is directed to suffer sentence of three years and fine of Rs.500/- in default of payment of fine to undergo fifteen day's simple imprisonment. He is also convicted for an offence under Section 11 punishable under Section 12 of the Protection of Children From Sexual Offences Act and he is directed to undergo simple imprisonment for one year and to pay a fine of Rs.200/- in default of payment of fine to undergo seven days simple imprisonment.

4. After hearing the learned counsel for the applicant and the learned A.P.P. and after having gone through the judgment, in my view, the applicant has made out a prima facie case for suspension of substantive jail sentence imposed on him during the pendency of the appeal. In addition to that, the applicant was on bail and at no point of time, he has misused the liberty granted to him. On affidavit, a statement is made by the applicant that the total fine amount of Rs.200/- is already deposited on 03.02.2018.

5. The pursis shows that after conviction, the applicant moved an application for suspension of sentence and the said application was at Exh.-33 on record. On 03.02.2018 itself the learned Judge of the Court below, while exercising the discretion under Section 389 (3) of the

Code of Criminal Procedure has suspended the substantive jail sentence and released the applicant on bail on he furnishing P.R. Bond in the sum of Rs.10,000/-. Hence, following order is passed.

ORDER

- (i) Criminal Application No. 198/2018 is allowed.
- (ii) The substantive jail sentence awarded to the applicant-Rajan s/o Suresh Patel in Special Criminal (POCSO) Case No.119/2016 by Additional Sessions Judge, Nagpur on 03.02.2016 shall remain suspended during the pendency of the appeal.
- (iii) The applicant be released on same bail however on execution of the fresh bonds before the Court below.
- (iv) The applicant shall remain personally present at the time of final hearing of the appeal.

The application is disposed of.

JUDGE