

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

CRIMINAL APPLICATION (APPA) NO.403/2018

IN

CRIMINAL APPEAL NO.281/2018

Umesh s/o Kailash Vatke

...Versus...

State of Maharashtra, through P.S.O., Police Station, Warud, Tq. Warud, Distt.
Amravati

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

Court's or Judge's orders

Shri D.A. Sonwane, Counsel (appointed) for applicant/appellant
Shri H.R. Dhumale, APP for respondent

**CORAM : R.K. DESHPANDE AND
ARUN D. UPADHYE, JJ.**

DATE : 07/09/2018

The conviction is for the offence punishable under Section 376-D (n) of the Indian Penal Code read with Sections 5 (1) and 6 of the Protection Of Children From Sexual Offences Act sentencing two accused to suffer rigorous imprisonment for 20 years each, which are to be run concurrently, along with fine.

The accused no.1 was released on bail by this Court on 27/9/2017 as per the order passed in Criminal Application (APPA) No.646/2017. The doubt is about the age of the prosecutrix, for which the evidence of *bona fide*

certificate is produced. Ossification test was conducted. The opinion was that the victim must be of the age between 14 to 16 years. The primary evidence about her age is not produced.

On the ground of parity, the present applicant will be entitled for suspension of sentence and grant of bail.

In the result, the criminal application is allowed. The sentences imposed on the accused for the offences punishable under Section 376-D (n) of the Indian Penal Code read with Sections 5 (1) and 6 of the Protection Of Children From Sexual Offences Act are hereby suspended. The applicant/accused shall be released on bail on the same terms and conditions as were imposed by the Special Court while releasing him on bail during the pendency of the trial.

The criminal application stands disposed of.

(Arun D. Upadhye, J.)

(R.K. Deshpande, J.)

Wadkar, P.S.

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