

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

CRIMINAL APPEAL NO.310/2018
Praful s/o Arunrao Mankar and anr

..vs..

State of Mah., thr. PSO Deoli, Tahsil Deoli, District Wardha

.....
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 Mahesh Rai, Counsel for the appellants.
Shri A.D. Sonak, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.
DATED : MAY 3, 2018.

1. Heard learned counsel Shri Mahesh Rai for the appellants.
2. **ADMIT.**
3. Learned Additional Public Prosecutor Shri A.D. Sonak waives service on behalf of the State.

Criminal Application (APPA) No.446/2018

1. This is an application for suspension of substantive jail sentence and for grant of bail.
2. Heard learned counsel Shri Mahesh Rai for the applicants/appellants and learned Additional Public Prosecutor Shri A.D. Sonak for the State. Also, perused the impugned judgment.
3. The applicants/appellants were convicted by

judgment and order of conviction dated 6.4.2018 passed by learned Special Judge for POCSO, Wardha in Special (Child) Case No.89/2014.

Applicant/appellant No.1 Praful was convicted for offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012 and for that he was directed to suffer rigorous imprisonment for 3 years and to pay a fine of Rs.1000/- and, in default of payment of the fine amount, to suffer simple imprisonment for 1 month.

Applicant No.2 Golu @ Pradip was convicted for offence punishable under Section 17 of the said Act and for that he was directed to suffer rigorous imprisonment for 3 years and to pay a fine of Rs.500/- and, in default of payment of the fine amount, to suffer simple imprisonment for 15 days.

Both these accused are acquitted of offence punishable under Section 354 read with Section 34 of the Indian Penal Code.

4. The applicants/appellants were on bail during the course of the Trial and at no point of time they have misused the liberty granted to them in their favour.

5. Learned counsel Shri Mahesh Rai for the applicants/appellants invites my attention to paragraph No.3 of the application which states that after pronouncement of the impugned judgment, the applicants/appellants filed an application for

suspension of substantive jail sentence and for grant of bail. Learned Judge of the Court below, while exercising powers under Sub section (3) of Section 389 of the Code of Criminal Procedure, suspended the substantive jail sentence and granted bail.

6. In that view of the matter, I pass the following order:

ORDER

(i) The criminal application is allowed.

(ii) The substantive jail sentence imposed upon the applicants/appellants on 6.4.2018 by learned Special Judge for POCSO, Wardha in Special (Child) Case No.89/2014 shall remain suspended during the pendency of the present criminal appeal.

(iii) Applicant/appellant Praful s/o Arunrao Mankar and applicant/appellant Golu @ Pradip s/o Kisnaji Nehare, be released on bail on they executing P.R. Bond in the sum of Rs.10,000/- by each of them with one solvent surety of the like amount by each of them before learned Judge of the Court below.

(iv) The applicants/appellants shall remain personally present before this Court at the time of final hearing of the criminal appeal.

(v) With this, the criminal appeal is allowed and disposed of accordingly.

JUDGE

!! BRW !!