

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

CRIMINAL APPLICATION (APPA) NO.1045/2018 IN
CRIMINAL APPEAL NO.634/2018

Deorao s/o Gajanan Gajam .vs. State of Maharashtra thr. PSO PS Kalamna,
Tq. Dist. 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. M. Daga, Advocate for applicant.
Mr. N. S. Rao, A.P.P. for non applicant-State.

CORAM : V.M. DESHPANDE, J.
DATED : NOVEMBER 19, 2018

By the present application, the applicant is praying for suspension of substantive jail sentence imposed upon him by learned Special Judge in Special Child Criminal Case No.81/2015 and for grant of bail.

I have heard Mr. Daga, learned counsel for the applicant and Mr. Rao, learned A.P.P. for the State. I have also perused the evidence and other relevant documents available in the record and proceedings.

The applicant is convicted by the Court below for the offence punishable under Sections 354 (A) (i), 452 and 342 of the Indian Penal Code and Section 8 of the Protection of Children From Sexual Offences Act, 2012. The applicant is sentenced to suffer rigorous imprisonment for 4 years and to pay a fine of Rs.10,000/-, in default to suffer simple imprisonment for 2 months. The applicant is also convicted under section

452 of the Indian Penal Code and on that count also he is directed to suffer imprisonment for 4 years and to pay a fine of Rs.5,000/-. Similarly, the applicant is convicted for the offence under Section 342 and on that count, sentence of 6 months and fine of Rs.1,000/- was imposed

After sentencing, the present applicant was taken into custody since then he is in jail.

Applicant, during the course of trial was on bail and it is not the stand of the prosecution that at any point of time, he has misused the liberty granted to him.

After perusing the relevant portion of the evidence of the material witnesses, FIR (Exh.-9), prima facie, there is no plausible explanation for lodging the FIR after a period of four days from the date of incident.

The applicant is convicted for a fixed sentence and looking to the quantum of sentence and looking to the volume of pendency of the appeals before this Court, applicant can be released on bail on certain conditions.

In view of above, the application is allowed. Substantive jail sentence imposed upon the applicant in Special Child Criminal Case No.81/2015 by Special Judge, Nagpur on 11.10.2018 shall remain suspended during the pendency of the present appeal.

The applicant be released on bail on he executing P.R. Bond in the sum of Rs.25,000/- before Special Judge with two solvent sureties in the like amount.

The applicant shall not try to extend any type of threats to the victim.

The applicant shall remain personally present before this Court at the time of final hearing of the appeal.

The application is disposed of.

JUDGE

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