

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

CRIMINAL APPLICATION NO.1120/2018 IN
CRIMINAL APPEAL NO.705/2018

Ashish s/o Radheshyam Parasram .vs. State of Maharashtra, through
PSO P. S. Chandrapur City, Dist. Chandrapur.

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

Court's or Judge's orders.

Mr. M. V. Rai, Advocate for applicant.

Mr. S. M. Ghodeswar, A.P.P. for non applicant-State

CORAM : V.M. DESHPANDE, J.

DATED : NOVEMBER 19, 2018

Heard Mr. Rai, learned counsel for applicant and Mr. Ghodeswar, learned A.P.P. for non applicant-State.

This is an application under Section 389 of the Code of Criminal Procedure for suspension of substantive jail sentence and for grant of bail.

The appeal is preferred by Ashish Radheshyam Parasram, who was accused no.1 before the Court below in Special (POCSO) Case No.9/2016 which is decided by the learned Special Judge, Chandrapur on 26.10.2018. The Court below has convicted the applicant for an offence punishable under Section 354-D read with Section 34 of the Indian Penal Code and is directed to suffer rigorous imprisonment for 2 years and to pay a fine of Rs.2,000/-. He is also convicted for the offence under Section 506 read with Section 34 of the IPC and is sentenced to suffer 6 months rigorous imprisonment

and to pay a fine of Rs.500/-. Both the sentences were directed to run concurrently.

From perusal of observations in paragraph nos. 22 and 24 of the impugned judgment, it is crystal clear that the applicant is behind the bars since 1½ years. Thus, he has already undergone more than half of the sentence. Hence, in view of the law laid down by Hon'ble Apex Court in *Kamal .vs. State of Haryana*; reported in *(2004) 13 SCC 526*, especially when there is no chance of appeal being taken for final hearing in near future. Hence, the application is allowed.

Applicant-Ashish Radheshyam Parasram be released on bail on he executing P.R. Bond in the sum of Rs.5,000/- with one solvent surety in the like amount. Before releasing the applicant on bail, the Court below shall ensure that the applicant has deposited the entire fine amount.

The applicant is directed not to extend any types of threats to the victim.

The applicant is further directed to remain personally present before this Court at the time of final hearing of the appeal.

The application is disposed of.

JUDGE