

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

Criminal Application (Appa) No.1070 of 2017
(Mahadeo s/o. Damduji Dhongade .vs. State)

 Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Mr.S.G.Malode, Advocate for the appellant.
Mr.M.J.Khan, A.P.P. for the Respondent/State.

CORAM : R. K. DESHPANDE &
 M. G. GIRATKAR, JJ.

DATE : 15.1.2018.

Heard.

Appellant/applicant is convicted for the offence punishable under Section 376(2)(f)(i) of the Indian Penal Code and u/s.5(n) of Protection of Children from Sexual Offences Act, 2012. He is sentenced to suffer rigorous imprisonment for life and to pay a fine of Rs.10,000/- and in default, to suffer further rigorous imprisonment for six months.

With the assistance of the learned Counsels appearing for the parties, we have gone through the oral evidence of prosecutrix, who was then aged about 13 years. Accused is the paternal uncle and from her own version, it seems that the prosecutrix was hardly 2 to 3 minutes in the house of accused on the date of incident in the afternoon. There was a meeting over the property dispute between the

parties on 29.6.2013 i.e. the date of incident at about 12.00 noon. The incident is alleged to have happened at 9.00 p.m. and there was serious doubt about presence of prosecutrix at the house of appellant at the time of incident. This is what prima facie we find.

The accused was, during the course of trial, released on bail. We, therefore, allow this application and suspend the sentence imposed upon the appellant by the Special Court at Nagpur in Special Case (POSCO) No.107 of 2013 on 28.11.2017.

The accused shall be entitled to release on bail on the same terms and conditions imposed by the Sessions Court during the course of trial while releasing the accused on bail.

The Criminal Application stands disposed of. No order as to costs.

JUDGE

JUDGE

**jaiswal*