

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

CRIMINAL APPEAL NO.618/2017
Shri Subodh s/o Digambar Deshkar

..vs..

The State of Mah., thr. PSO PS Ramnagar, Tahsil and District Chandrapur

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

Court's or Judge's Order

Shri Y.B. Mandpe, Counsel for the appellant.
Shri N.R. Rode, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : JANUARY 19, 2018.

1. Heard learned counsel Shri Y.B. Mandpe for the applicant.
2. **ADMIT.**
3. Learned Additional Public Prosecutor Shri N.R. Rode waives Notice on behalf of the State.
4. Call record and proceedings.

Criminal Application (APPA) No.1104/2017

1. This is an application for suspension of substantive jail sentence and for grant of bail.
2. The applicant/appellant faced the Trial in Special (POCSO) Case No.83/2016 in the Court of learned Additional Sessions Judge at Chandrapur. Vide judgment and order dated 11.12.2017, learned Judge of the Court below acquitted the applicant/appellant for the offences punishable under Sections 323, 504, and 506 of the

Indian Penal Code and Section 11(4) punishable under Section 12 of the Protection of Children from Sexual Offences Act, 2012. However, the applicant/appellant was convicted for the offence punishable under Section 354-D and directed to suffer 3 years rigorous imprisonment and to pay a fine of Rs.10,000/-.

3. The applicant/appellant, after the conviction, filed an application for suspension of substantive jail sentence and the Trial Court suspended the substantive jail sentence for a period of one month in order to give time to approach to this Court, is the statement on oath which is made in paragraph No.3 of the application. The certified copy of the judgment and order passed by learned Judge of the Court below shows that the applicant/appellant has already deposited the entire fine amount. The applicant/appellant was on bail and at no point of time the applicant/appellant has misused the liberty granted to him in his favour, is the statement made by learned counsel Shri Y.B. Mandpe for the applicant/appellant which is accepted.

4. Looking to the fact that the jail sentence of the applicant/appellant is only for a limited duration and looking to the pendency of criminal appeals and that there is no chance for this Court to take up the present appeal early for its final hearing, I pass following order:

ORDER

(a) The criminal application is allowed.

(b) The substantive jail sentence imposed upon the applicant/appellant by learned Additional Sessions Judge at Chandrapur in Special (POCSO) Case No.83/2016 dated 11.12.2017 shall remain suspended during the pendency of the appeal.

(c) Applicant/appellant Shri Subodh s/o Digambar Deshkar, be released on bail on his executing a P.R. Bond in the sum of Rs.25,000/- with one solvent surety of the like amount.

(d) Bail before learned Additional Sessions Judge at Chandrapur.

(e) The applicant/appellant shall remain personally present before the Court at the time of final hearing of the appeal.

(f) With this, the criminal application is allowed and disposed of.

JUDGE

!! BRW !!

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