

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

CRIMINAL APPLICATION (APPA) NO.166/2019

IN

CRIMINAL APPEAL NO.107/2019

Mr.Yuvraj s/o Devman Sonekar

..vs..

State of Mah., thr. PSO PS MIDC Nagpur

.....
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 M.M.Pimpalgaonkar, Counsel for the Applicant.
Shri V.A.Thakare, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE, J.

DATED : NOVEMBER 28, 2019.

1. This is an application for suspension of substantive jail sentence and for grant of bail.
2. Heard learned counsel Shri M.M.Pimpalgaonkar for the applicant and learned Additional Public Prosecutor Shri V.A.Thakare for the State.
3. This Court (Coram : Rohit B.Deo, J.), on 6.6.2019 already admitted the present appeal. While admitting the appeal, the Court observed that the present application will be considered only after the applicant surrenders to custody and files a certificate of surrender issued by appropriate Jail Authority.
4. Learned Additional Public Prosecutor Shri V.A.Thakare for the State, submits that the applicant has surrendered and presently he is lodged in Nagpur Central Prison, Nagpur.

The statement is accepted.

5. By judgment and order of conviction dated 10.12.2018 passed by learned 10th Additional Sessions Judge, Nagpur in Special POCSO Case No.106/2015, the applicant is convicted for offences punishable under Sections 7 and 8 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer simple 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 5 days. Though the applicant is convicted for offences punishable under Sections 341, 354A(i), and 354(D) of the Indian Penal Code, no separate sentence is awarded for the said offences.

6. Learned counsel for the applicant submitted that the applicant during course of Trial was on bail and at no point of time he misused the liberty granted to him in favour. The said is the statement of learned Additional Public Prosecutor for the State.

7. After the conviction, learned Judge of the Court below was pleased to suspend the substantive jail sentence, however no immediate step was taken and, therefore, order of surrender was passed.

8. As per the order dated 6.6.2019, learned counsel for the applicant filed a pursis dated 8.11.2019 stating therein that the applicant has filed a Certificate of imprisonment issued by Superintendent, Nagpur Central Prison (Nagpur (MS)). The said Certificate is annexed with the said Pursis. As per the Certificate, the applicant is confined and serving imprisonment in the prison.

9. In view of the aforesaid, I pass following order:

ORDER

(a) The criminal application is allowed.

(b) The substantive jail sentence imposed upon the applicant by judgment and order of conviction dated 10.12.2018 passed by learned 10th Additional Sessions Judge, Nagpur in Special POCSO Case No.106/2015 shall stand suspended during the pendency of the present appeal.

(c) The applicant be released on bail on his executing a P.R.Bond in the sum of Rs.5000/- with one solvent surety of the like amount.

(d) The applicant shall attend MIDC Police Station, Nagpur once in 6 months during the pendency of the present appeal.

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

With this, the criminal application stands disposed of accordingly.

JUDGE

!! BRW !!

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