

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

CRIMINAL APPLICATION (APPA) NO.221 OF 2019

IN

CRIMINAL APPEAL NO.141 OF 2019

(Satish s/o Prabhakar Wankhede Vs. State of Maharashtra thr. PSO PS Pratap Nagar,
Nagpur)

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

Court's or Judge's orders.

Shri A.K. Sorde, Advocate for Appellant.
Shri N.B. Jawade, APP for Respondent/State.

CORAM: ROHIT B. DEO, J.

DATE: 3rd JUNE, 2019.

The appellant is convicted for offence punishable under sections 363, 376(1)(2) of the Indian Penal Code and section 4 read with section 3(a) of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act) and is sentenced to suffer rigorous imprisonment for three years and ten years respectively.

2] Shri Sorde, the learned counsel for the appellant would invite my attention to the evidence on record and in particular to the report of the medical examination of the victim, which is admitted in evidence on admission, and contend that the evidence on record is not sufficient to prove the accusation that the victim was subjected to sexual intercourse.

3] Shri N.B. Jawade, the learned APP would submit that the offence proved is heinous. The presumption of innocence is not available to the appellant. The presumption

under section 29 of the POCSO Act is only strengthened by the findings recorded by the trial Court and this is not a fit case for suspension of sentence, is the submission.

4] Shri N.B. Jawade is justified in the submission that in conviction appeals under the POCSO Act, ordinarily this Court ought to be slow to suspend the sentence. However, in the present case, on a *prima facie* perusal of the evidence on record and the medical report of the victim, I find it appropriate to suspend the sentence till the final disposal of the appeal, particularly since according to Shri Sorde, learned counsel the accused was on bail during the trial.

5] The sentence is suspended.

6] The appellant be released on bail subject to the appellant executing PR bond of Rs.16,000/- and furnishing solvent surety of like amount.

7] The appellant shall report at the Pratap Nagar Police Station, Nagpur once in a two month till the appeal is finally disposed of.

8] The appellant shall remain present on each date of hearing of the appeal.

JUDGE