

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

CRIMINAL APPEAL NO.195 OF 2019

[Nitesh s/o Ramesh Mohurle .vs. State of Maharashtra]

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

CORAM : MRS. SWAPNA JOSHI, J.

DATED : MARCH 20, 2019.

Heard Shri Mahesh Rai, learned advocate for the appellant
and Ms A.R. Kulkarni, learned A.P.P. for the respondent-State.

Admit.

Call record and proceedings.

Learned A.P.P. waives notice on behalf of the respondent-
State.

Criminal Application (APPA) No.301/2019

By this application, the applicant-appellant prays for
suspension of jail sentence imposed upon him by the learned
Special Judge, Chandrapur dated 18.2.2019 in Special (POCSO)
Case No.22/2017 and grant of bail.

The applicant is convicted for the offence punishable under
Sections 354, 354-B of the Indian Penal Code and under Section 11
(ii) r/w Section 12 of the Protection of Children from Sexual
Offences Act, 2012, whereby the learned Judge has sentenced the
appellant to suffer simple imprisonment for a period of one year
and to pay a fine of Rs.1000/- in default to suffer imprisonment for
two months for the offence punishable under section 354 of the
Indian Penal Code and for the offence punishable under Section
354-B of the Indian Penal Code, the accused was sentenced to
suffer simple imprisonment for a period of three years and to pay a
fine of Rs.2000/- in default to suffer imprisonment for four months.

I have heard Shri Mahesh Rai, the learned advocate for the

appellant and Ms A.R. Kulkarni, the learned APP for the respondent-State.

The applicant was on bail during the pendency of trial. Even after the judgment and order of conviction, the learned trial Court has suspended the jail sentence and the applicant was released on bail.

Taking into consideration the nature of allegations against the applicant, also the fact that the applicant was on bail during the trial and the substantive jail sentence was already suspended and the applicant was released on bail by the learned trial Judge and also considering that it would not be possible to take up the hearing of the appeal finally by this Court in near future due to pendency of old matters, I am of the view that the applicant is entitled to suspension of jail sentence and grant of bail. Hence the following order :

ORDER

- 1] Criminal Application No.301/2019 is allowed.
- 2] The substantive jail sentence imposed against the applicant by the learned Special Judge, dated 18.2.2019 in Special (POCSO) Case No.22/2017 shall remain suspended during the pendency of the present appeal.
- 3] The applicant shall be released on bail by executing fresh bonds of the same amount as in the trial court.
- 4] The learned Judge before whom the bail bonds will be executed shall ensure that before execution of the bail bonds, the entire fine amount is deposited by the applicant.
- 5] The applicant shall remain personally present before this Court at the time of final hearing of the Appeal.

Criminal Application stands disposed of.

JUDGE