

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

CRIMINAL APPLICATION (APPA) NO.676/2019

IN
CRIMINAL APPEAL NO.548/2019

Wasudeo Tulshiramji Khadse

...Versus...

State of Maharashtra Through Police Station Officer, Kholapur, Tq. Bhatkuli,
Dist. Amravati

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

Court's or Judge's orders

Shri S.M. Ghodeswar, A.P.P. for respondent

CORAM : V. M. DESHPANDE, J.

DATE : 08/11/2019

1. This is an application for suspension of jail sentence and for grant of bail.
2. The learned Counsel for the applicant is absent. The State is represented by Shri S.M. Ghodeswar, the learned Additional Public Prosecutor. Record and proceedings is also received. I am of the view that absence of the learned Counsel for the applicant need not detain this Court in considering the application for suspension of jail sentence and for grant of bail.
3. The applicant stands convicted by the learned Special Judge – 2, Amravati vide judgment and order dated 29/10/2018 in Special Case (POCSO) No.220/2015. The applicant was found to be guilty for the offence punishable under Section 12 of the Protection of Children from Sexual Offences Act, 2012 and on that

count, he is directed to suffer rigorous imprisonment for three years and to pay a fine of Rs.5,000/-.

4. The appeal was preferred before this Court. However, the appeal was barred by limitation and therefore, the application for condonation of delay was also filed. The application for condonation of delay along with appeal and the present application for suspension of jail sentence were listed before this Court on 30/07/2019. On the said day also the learned Counsel for the applicant was absent and the State was represented by the learned Additional Public Prosecutor. This Court (Coram : Rohit B. Deo, J.) condoned the delay and after condoning the delay admitted the appeal and also granted temporary bail in favour of the applicant by ordering him to release him on furnishing P.R. Bond of Rs.15,000/-.

5. The present application was listed before this Court on 06/11/2019. On the same day also the learned Counsel for the applicant was absent. Therefore, this Court asked the learned Additional Public Prosecutor Shri S.M. Ghodeswar orally to take instructions as to whether the applicant is released from jail in view of the order dated 30/07/2019.

6. The learned Additional Public Prosecutor makes a statement, on instructions received from the Investigating Officer and the Jail Authority, that after the order dated 30/7/2019, the applicant is released on bail after he has executed bail bonds. The punishment imposed upon the applicant is for three years. The applicant is already granted temporary bail and he is already released from jail. In that view of the matter, I proceed to pass the following order.

7. The criminal application is allowed. The substantive jail sentence imposed upon the applicant by the learned Special Judge-2 vide judgment and order dated 29/10/2018 in Special Case (POCSO) No.220/2015 shall stand remained suspended during the pendency of the criminal appeal. The temporary bail granted in favour of the applicant on 30/07/2019 is hereby confirmed.

JUDGE

Wadkar, P.S.