

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**NAGPUR BENCH, NAGPUR.****CRIMINAL APPEAL NO.559/2019**

Sunil Waman Gawai .vs. State of Maharashtra thr. PSO P.S. Chikhali, Dist. Buldhana.

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

Court's or Judge's orders.

Mr. R. G. Kavimandan, Advocate for appellant.

Mr. P. S. Tembhare, A.P.P. for respondent-State.

CORAM : V. M. DESHPANDE, J.

DATED : NOVEMBER 21, 2019

Criminal Application No. 725/2019

This is an application under Section 389 of the Code of Criminal Procedure for suspension of substantive jail sentence and for grant of bail.

Heard Mr. Kavimandan, learned counsel for applicant and Mr. Tembhare, learned A.P.P. for non applicant-State. Also seen the relevant documents from the record and proceedings.

The applicant was convicted by learned Special Judge, Buldhana on 11.07.2019 in Special Case (POCSO) No.25/2018 for an offence punishable under Section 8 of the Protection of Children From Sexual Offences Act and Section 354-A(1)(i) of the Indian Penal Code. He is directed to suffer rigorous imprisonment for three years and to pay a fine amount of Rs.1,000/-. He was also convicted for an offence punishable under Section 506 of the IPC and was directed to suffer rigorous imprisonment for six months and to pay a fine amount of Rs.1,000/-

Certified copy of judgment and order of conviction shows that fine amount was already paid by present applicant. After conviction, applicant filed application (Exh.-38) before Court below for suspension of substantive jail sentence for approaching to this Court and on 11.07.2019 itself, learned Special Judge suspended substantive jail sentence on he furnishing P.R. Bond in the sum of Rs.15,000/-with one solvent surety in like amount.

This appeal was listed before this Court (Coram: Rohit B. Deo, J.) on 09.08.2019 and on the said day, appeal was admitted and on this application, an order was passed that the substantive jail sentence shall remain suspended temporarily.

After hearing learned counsel for applicant and after perusing the impugned judgment, I am of the opinion that looking to the quantum of punishment imposed upon the applicant and the fact that it will not be possible for this Court to hear the appeal in near future, the application has to be considered favourably. Hence, I pass following order.

ORDER

- (i) The application is allowed.
- (ii) Substantive jail sentence imposed upon applicant-Sunil Waman Gawai in Special Case (POCSO) No.25/2018, shall remain suspended during the pendency of the present appeal.
- (iii) Applicant be released on bail on he executing P.R. Bond in the sum of Rs.15,000/- with one solvent surety in the like amount.

(iv) Fresh bonds be executed by the applicant before the Court below within 1 ½ months from today.

(v) Applicant shall attend Police Station, Chikhali, Tq. Chikhali, Dist. Buldhana once in every six months during the pendency of the present appeal.

(vi) Applicant shall personally remain present before this Court at the time of final hearing of this appeal.

The application is disposed of.

Criminal Application No.726/2019

This is an application for grant of time to remove office objections.

Learned counsel for the applicant submits that applicant has already removed the office objections raised by the registry.

The statement is accepted.

In that view of the matter, the application is disposed of.

JUDGE