

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

CRIMINAL APPLICATION (APPA) NO.980/2019 IN
CRIMINAL APPEAL NO. 741/2019

Ashok s/o Marotrao Kuchewar .vs. State of Maharashtra through PSO P.S.
Ralegaon, Dist. Yavatmal.

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

Court's or Judge's orders.

Mr. Amol Mardikar, Advocate for applicant.
Mr. P. S. Tembhare, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.
DATED : DECEMBER 09, 2019

Heard Mr. Mardikar, learned counsel for applicant
and Mr. Tembhare, learned A.P.P. for non applicant-State.
Also perused the record and proceedings.

Applicant was convicted by learned Additional
Sessions Judge, Yavatmal in Special (POCSO) Case
No.69/2017 for an offence punishable under Section 354 of
the Indian Penal Code and directed to suffer rigorous
imprisonment for three years and for an offence punishable
under Section 8 of the Protection of Children From Sexual
Offences Act, he is directed to suffer rigorous imprisonment
for five years and to pay a fine of Rs.1,000/-.

Mr. Mardikar, learned counsel for applicant
submits that the applicant was not on the spot at the time of
incident as it could be seen from evidence of Maya (DW1).
He also submits that the applicant's age is 80 years and he is
having heart problem. He further submits that applicant was
on bail during the pendency of this appeal therefore

substantive jail sentence of the appellant may be suspended and he be released on bail.

Mr. Tembhare, learned A.P.P. for non applicant-State opposes the application. Merely because applicant was on bail during trial cannot be a criterion for granting bail post conviction.

Similarly, age of applicant cannot be a consideration much less in present case looking to serious accusation stood proved by prosecution on examining victim (PW1) and her mother (PW2).

Evidence of victim (PW1) is corroborated by victim's mother (PW2), who is eye witness and who has seen applicant in company of victim in objectionable condition.

Looking to age of applicant, it is quite clear that applicant may not be available for undergoing sentence. Insofar as ailments are concerned, jail authorities will take appropriate steps to provide medical help.

No case is made out by applicant for suspension of sentence and for grant of bail. The application is, therefore, rejected.

JUDGE