

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

**CRIMINAL APPLICATION (APPA) NO. 1048 OF 2019**  
**IN**  
**CRIMINAL APPEAL NO. 805 OF 2019**

Nilesh Devidas Khode .Vs. State of Maharashtra,through P.S.O, P.S.  
Babulgaon, Tq. Babhulgaon, Dist. Yavatmal.

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

Court's or Judge's orders.

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Mr. Dhande, Advocate for applicant.  
Mr. awade, A.P.P. for non applicant- State.

**CORAM : V. M. DESHPANDE, J.**  
**DATED : JANUARY 02, 2020**

Counsel for the applicant is permitted to correct the date of order in the pursis forthwith.

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

Heard Mr. Dhande, learned counsel for the applicant and Mr. N.B. Jawade, learned Additional Public Prosecutor for non applicant-State.

Applicant stands convicted for the offence punishable under Section 354-D of the Indian Penal Code and under Section 12 of the Protection of Children from Sexual Offences Act and directed to suffer rigorous imprisonment one year and pay fine amount of ₹ 1,000/-, in default to suffer further simple imprisonment for 15 days.

Vide Pursis (Stamp) No.3/2020 applicant's counsel has placed on record certified copy of application (Exh. 58) filed on behalf of applicant before learned Court below for suspension of jail sentence till appeal period is over.

Learned Judge of the Court below, on 16.11.2019 itself, by exercising powers under Section 389 (3) of the Code of Criminal Procedure has suspended the substantive jail sentence.

Applicant has also filed original copy of receipt showing payment of fine amount.

Applicant was on bail during trial and at no point of time he misused liberty granted in favour of him. Consequently, I pass the following order:

### **ORDER**

- (i) The application is allowed.
- (ii) The substantive jail sentence imposed upon the applicant by learned Additional Sessions Judge-2, Yavatmal on 16.11.2019 in Special Case (POCSO) No.83/2016 convicting the applicant for the offence punishable under Sections 354-D of the Indian Penal Code and under Section 12 of the Protection of Children from Sexual Offences Act, shall remain suspended during pendency of this appeal.
- (iii) Applicant – Nilesh Devidas Khode be released on bail on he executing fresh bail bond in the sum of Rs.15,000/- with one solvent surety in the like amount.

(iv) The fresh bail bonds be executed before the Court below within a period of one month from today.

(v) The applicant is directed to attend Police Station, Babhulgaon, Tq. Babhulgaon, Dist. Yavatmal once in six months during pendency of this appeal.

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

The application is disposed of.

**JUDGE**

*srwagh*