

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

CRIMINAL APPEAL NO. 139/2021

Uttam S/o Bapurao Mekale

-VERSUS-

State of Maharashtra.

Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.

Court's or Judge's Orders

Shri S. Deshpande, Advocate h/f Shri A. C. Jaltare,
Advocate for appellant.

Mrs. S. S. Jachak, APP for respondent/State.

CORAM : VINAY JOSHI, J.

DATE : 23.03. 2021.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The appellant/accused is convicted in Special (POCSO) Case No. 103/2015 for the offence punishable under Sections 354-A(1)(i) of the Indian Penal Code and Section 8 of the Protection of Children From Sexual Offences Act and was sentenced to suffer rigorous imprisonment for term of three years and to pay fine of Rs. 1,000/- in default to suffer simple imprisonment for a period of six months.

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3. Heard.

4. **Admit.**

5. Call for record and proceedings.

6. Learned Additional Public Prosecutor waives service of notice.

CRIMINAL APPLICATION (APPA) NO. 206/2021

7. The applicant is seeking for suspension of execution of sentence passed in Special (POCSO) Case No. 103/2015. The applicant is convicted for the offence punishable under Sections 354-A(1)(i) of the Indian Penal Code and Section 8 of the Protection of Children From Sexual Offences Act, and sentenced to suffer rigorous imprisonment for term of three years and to pay fine of Rs. 1,000/- in default to suffer simple imprisonment for a period of six months.

8. Learned counsel for appellant took me through the portion of evidence and argued about the inconsistency, improbability and inadequacy of evidence.

9. Learned Advocate for appellant upon instruction, made a statement that the Trial Court

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has suspended the execution of sentence of appellant on the date of conviction itself and period of suspension would expire tomorrow.

10. The appellant/applicant has already deposited fine amount in Trial Court. The appeal will take its own time for disposal in accordance with law. The appellant is imposed with fixed term of sentence. If appellant is acquitted on merits then irreversible position may occur in case, he is detained in jail. There are no exceptional circumstances to deny suspension of sentence. Having regard to all these circumstances, the execution and implementation of the impugned sentenced passed in Special (POCSO) Case No. 103/2015 is suspend till disposal of appeal. In the meantime, applicant – Uttam Bapurao Mekale is released on bail on furnishing P. R. Bond Rs. 15,000/- with one surety in the like amount.

11. Application stands disposed of

JUDGE

Gohane.