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

CRIMINAL APPLICATION [APPA] NO. 213/2021
IN CRIMINAL APPEAL NO. 144/2021.

Raghunath Anandrao Navghare.

-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 R.R. Vyas, Advocate for the Applicant/Appellant.
Ms. N. Mehta, A.P.P. for the Non-applicant/Respondent.

CORAM : VINAY JOSHI, J.

DATE : APRIL 07, 2021.

Heard learned Counsel for the parties
through video conference.

2. This is an application for suspension of
execution of sentence in terms of Section 389[1] of
the Code of Criminal Procedure. The applicant/
accused was convicted by the Special Court in
Sessions Trial No. 103/2016 for the offence
punishable under Section 354-A of the Indian Penal
Code and Section 7 read with Section 8, Section 11
read with Section 12 of the Protection of Children
from Sexual Offences Act (hereinafter referred to as

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‘the POCSO Act’ for short). The convicting Court has imposed sentence to undergo rigorous imprisonment for 5 years and to pay fine of Rs. 5000/- for offence punishable under Section 354-A of the Indian Penal Code and Section 8. Besides that he was also sentenced to undergo rigorous imprisonment for 3 years and to pay fine of Rs.5000/- for offence punishable under Section 12 of the POCSO Act. Both the sentences are directed to run concurrently.

3. The learned Counsel for the applicant/appellant has strongly criticized the judgment of conviction by stating that in absence of any amount of evidence, the trial Court felt in serious error in convicting the applicant/accused. He took me through the evidence of all 5 witnesses to impress that there is no incriminating material against the applicant/accused. Particularly my attention was invited to the evidence of minor victim [PW 3], who has not supported the prosecution case. Curiously, I have gone through the impugned judgment so as to see on which material the conviction is based. It

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appears that on the basis of surrounding evidence, the trial Court has based its conviction, which appears from paragraph no.28 onwards of the judgment. In that view of the matter, the submission of the learned Counsel for the applicant/accused that he has fair chances of success in the appeal, carries substance.

4. During trial the applicant/accused was on bail. The applicant/accused has also deposited the fine amount. The maximum imprisonment is for a term of 5 years. Having regard to all these facts, the applicant has made out a case for suspension of execution of the sentence, hence the following order.

- (i) Criminal Application is allowed and disposed of.
- (ii) Execution of substantive sentence imposed by the learned Extra Joint District and Additional Sessions Judge, Akola in Session Trial No.103/2016 dated 05.03.2021, stands suspended till the disposal of the Criminal Appeal.

Order

0704appa213.21

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- (iii) The applicant/appellant – Raghunath Anandrao Navghare be released on bail on his furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.

Rgd.

JUDGE

Rakesh
Dhuriya

Digitally signed
by Rakesh
Dhuriya
Date: 2021.04.07
16:01:48 +0530