

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

CRIMINAL APPLICATION (APPA) NO. 223 OF 2020 IN
CRIMINAL APPEAL NO. 196 OF 2020

(Sanjay s/o Sanjeet Roy, Chandrapur Vs. State of Maharashtra)

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

Court's or Judge's orders.

Shri Mahesh V. Rai, Advocate for the applicant/
appellant.

Shri M.J. Khan, A.P.P. for the respondent.

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CORAM : PUSHPA V. GANEDIWALA, J.
JANUARY 14, 2021.

This is an application filed under Section 389 of the Code of Criminal Procedure, 1973, for suspension of sentence and grant of bail to the applicant/appellant, who is sentenced for the offence punishable under Sections 363, 366 and 376 of the Indian Penal Code, 1860 (for short "IPC") read with Section 4 of the Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act"), vide the judgment and order dated 28/11/2019 passed by the Special Judge, Warora in Spl. (POCSO) Case No. 01/2016.

2] For the offence punishable under Section 363 of the IPC, the applicant/appellant is sentenced to suffer rigorous imprisonment for three years and

to pay fine of Rs.2,000/- (rupees two thousand), in default, to suffer two months simple imprisonment.

For the offence punishable under Section 366 of the IPC, the applicant/appellant is sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs.3,000/- (rupees three thousand), in default, to suffer three months simple imprisonment.

For the offence punishable under Section 376 of the IPC read with Section 4 of the POCSO Act, the applicant/appellant is sentenced to suffer rigorous imprisonment for ten years and to pay fine of Rs.7,000/- (rupees seven thousand), in default, to suffer six months simple imprisonment.

3] It is submitted that the applicant/appellant was on bail throughout trial, and after pronouncement of the aforesaid judgment, since around one year, he is behind the bar.

4] Learned A.P.P. strongly opposed the application considering the evidence brought before the Court and the nature of offence.

5] I have considered the submissions put forth on behalf of both the sides and perused the record.

6] At the outset, a perusal of the testimonies of the witnesses, particularly the testimony of the victim, who was aged around 13 years at the relevant time and that the applicant was around 26 years of age, so also considering the medical evidence available on record, in the opinion of this Court, there is sufficient material against the applicant/appellant.

7] Hence, this Court is not inclined to allow the application. It is rejected accordingly.

CRIMINAL APPEAL NO. 196/2020.

Preparation of paper book is expedited.

2] List it for final hearing in due course.

JUDGE

Sumit