

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION NO. 426 OF 2021 IN
CRIMINAL APPEAL NO. 313 OF 2021

Manish s/o Awachit Chavate

..vs..

State of Maharashtra, thr. P.S.O.

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

Court's or Judge's orders

Shri M.V. Rai, Advocate for applicant.
A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.
DATED : 03/09/2021

This is application of convicted accused seeking for suspension of execution of sentence passed by the District Judge-2 and Special Judge(POCSO Act), Wardha in Special POCSO Case No. 92 of 2016, whereby the applicant was convicted for the offence punishable under Section 363 of the Indian Penal Code and Section 10 of the Protection of Children from Sexual Offences Act, 2012 (POCSO ACT).

2. The Trial Court has imposed a maximum sentence to suffer rigorous imprisonment for five years along with total fine of Rs.5,000/-. During the trial, the applicant was on bail and after conviction, he has deposited the fine amount. It is submitted that the fixed term of imprisonment is imposed.

3. On merits, it is argued that there is no reliable evidence to establish the guilt against the

accused. Learned Counsel for the applicant took me through the evidence of P.W.1-informant and P.W.9 alleged eye-witness. It is pointed out that P.W.9 was only eye-witness, but has not supported, particularly, on the point of aggravated form of sexual assault.

4. There appears to be an arguable grounds on merit. The appeal will take considerable time for its disposal. There is no special circumstance to deviate from the normal rule of suspending the sentence when the accused is imposed with fixed term of sentence. There are no chances of appeal being taken up for final hearing in near future. Having regard to all these facts, following order :

- (a) The Criminal Application is allowed and disposed of.
- (b) Execution and implementation of substantive sentence passed in Spl. POCSO Case No.92 of 2016 by District Judge-2 and Special Judge (POCSO Act), Wardha is hereby suspended till the final disposal of appeal.
- (c) In the meantime, the applicant Manish s/o Awachit Chavate be released on bail on his furnishing P.R. bond in the sum of Rs.25,000/- with one surety in the like amount.

JUDGE