

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

CRIMINAL APPEAL NO.15 OF 2022

Pravin Parmarth Gaikwad

Versus

State of Maharashtra, through P.S.O., P.S. Chikhli, Dist. Buldhana and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri Morande, Advocate for the appellant/applicant.

Shri M.J. Khan, A.P.P. for the respondent No.1/State.

None for the respondent No.2.

CORAM : ANIL S. KILOR, J.

DATED : 28/03/2022

1. Heard.
2. **Admit.**
3. Call record and proceedings.
4. Shri Khan, learned APP waives service of notice to the respondent No.1/State.

CRIMINAL APPLICATION(APPA) NO.19 OF 2022

5. This is an application for suspension of sentence and for grant of bail.
6. The learned Judge, Special Court, Buldhana in Special Pocso Case No.21 of 2016, convicted the applicant for the offences punishable under Sections 363, 366-A of the Indian Penal Code and Section 8,

11(iv) of the Protection of Children from Sexual Offences, Act, 2012, (hereinafter referred to as “POCSO Act”) and sentenced to suffer Rigorous Imprisonment for three year with fine of Rs.2,000/-, in default to suffer Simple Imprisonment for two month. The applicant is further convicted for the offence punishable under Section 8 read with Section 7 of the POCSO Act and sentence to suffer Rigorous Imprisonment for three years and to pay a fine of Rs.2,000/-, in default to suffer Simple Imprisonment for two months.

7. Shri Morande, learned counsel for the applicant submits that Sections 363 and 366-A would not attract in this case, in view of the admissions given by the victim in his cross examination.

8. It is submitted that the applicant is having good case on merit and there is likelihood to succeed in the present matter.

9. It is submitted that the appellant was on bail during the trial. He, accordingly, prays for suspension of sentence and for grant of bail.

10. Shri Khan, learned APP strongly opposes the present application.

11. After considering the finding recorded by the learned trial Court, I am of the opinion that re-apprehension and re-appraisal of evidence on record

is necessary in this matter and there is no likelihood that this appeal would be heard in near future. Thus, I am of the view that the present application needs to be allowed.

12. The application is **allowed** and sentence imposed by the learned Judge, Special Court, Buldhana in Special (POCSO) Case No.21 of 2016 vide judgment dated 30.12.2021, is suspended till disposal of the appeal and applicant shall be released on bail on his executing P.R. Bond for Rs.15,000/- with one solvent surety in the like amount.

The application is **disposed of**, accordingly.

[ANIL S. KILOR, J.]