

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

**Criminal Application No. 41 of 2022
in
Criminal Appeal No. 28 of 2022**

Nilesh S/o Ratnakar Badkal

Versus

State of Maharashtra through Police Station Officer, Police Station Deoli,
Tah. Deoli, Dist. Wardha

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

Court's or Judge's Order

Shri C.H.Jaltare, Advocate for the applicant.

Shri S.D.Sirpurkar, APP for the non-applicant.

CORAM : ANIL S. KILOR, J.

DATED : 25th APRIL, 2022.

This is an application filed under Section 389 of Code of Criminal Procedure for suspension of sentence and grant of bail.

2. The applicant has filed appeal against conviction challenging the judgment and order dated 23rd November, 2021 passed by the learned Extra Joint Additional Sessions Judge (Special Court) Wardha in Special (Ch.Act) Case No.25 of 2017, convicting the appellant for the offence punishable under Section 6 of the Protection of Children from Sexual Offences Act,

2012 and sentenced to undergo rigorous imprisonment for ten years and to pay fine of Rs.3,000/-, in default of payment of fine accused to undergo simple imprisonment for six months. The applicant is further convicted for the offence punishable under Section 363 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for three years and to pay fine of Rs.1,000/-, in default of payment of fine accused to undergo rigorous imprisonment for three months. The applicant is further convicted for the offence punishable under Section 366 of the Indian Penal Code and sentenced to undergo rigorous imprisonment for five years and to pay fine of Rs.2,000/-, in default of payment of fine accused to undergo rigorous imprisonment for four months.

3. I have heard Shri Jaltare, learned counsel for the applicant and Shri S.D.Sirpurkar, learned Additional Public Prosecutor for the State. None for the respondent no.2, though served.

4. I have perused the findings recorded by the learned Sessions Court while convicting the applicant.

5. Learned counsel for the applicant submits that he was on bail during the trial. It is submitted that

he has very good case on merit and there is every likelihood that he would succeed in the present matter.

6. On the other hand, learned Additional Public Prosecutor opposes the present application.

7. Having considered the findings recorded by the learned Sessions Court, I am of the opinion that in this case re-appreciation and reappraisal of the evidence is necessary. There is no likelihood that this matter would come up for final hearing in near future. There is one more reason to allow this application is that applicant was on bail during the trial. Accordingly, I pass the following order.

ORDER

- i. Criminal application is allowed.
- ii. The sentence imposed by the learned Extra Joint Additional Sessions Judge, (Special Court) Wardha in Special (Ch. Act) No. 25 of 2017 vide judgment and order dated 23rd November, 2021, is suspended till disposal of the appeal.
- iii. The appellant shall be released on bail on his executing P.R.Bond for Rs.15,000/- with one solvent surety in the like amount.

[ANIL S. KILOR, J.]

Digitally signed
by
SACHINDANAND
K NAIR
Date: 2022.04.25
19:20:29 +0530