

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

CRIMINAL APPEAL NO.83 OF 2022

Roshan S/o Dashrath Kawankure

Versus

State of Maharashtra, through P.S.O., Pulgaon, Dist. Wardha 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 M.V. Rai, Advocate for the appellant/applicant.

Shri S.A. Ashirgade, A.P.P. for the respondent No.1/State.

Ms. Rashmi N. Gaikwad, Advocate for the respondent No.2.

CORAM : ANIL S. KILOR, J.

DATED : 05/05/2022

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

CRIMINAL APPLICATION (APPA) NO.117 OF 2022

5. This is an application for suspension of sentence and grant of bail.

6. The appellant is convicted for the offence punishable under Section 6 of the Protection of Children from Sexual Offences Act and sentenced to suffer Rigorous

Imprisonment of ten years and to pay a fine of Rs.7,000/-, in default of payment of fine, the appellant shall suffer Simple Imprisonment for six months.

7. Shri Rai, learned counsel for the applicant submitted that the prosecution has failed to prove the age of the victim. He further submits that the findings are not based on evidence and therefore, according to him, there is every likelihood that he would succeed in the present matter. It is submitted that the applicant was through out on bail during the trial and there is no complaint about abuse of concession.

8. Shri Ashirgade, learned APP for the respondent No.1/State and Ms Gaikwad, learned counsel for the respondent No.2 are opposing the present application.

9. I have perused the impugned judgment and order, thereupon, I am of the opinion that re-look to the evidence is necessary. Furthermore, as the applicant was through out on bail during the pendency of the trial and as there is no likelihood that this matter would come up for final hearing in near future. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.

- b) The substantive sentence imposed by the learned Additional Sessions Judge and Spl. (POCSO) Judge, Wardha in Atro. Special Case No.98 of 2014 vide judgment and order dated 27.01.2022, is suspended till disposal of the appeal.
- c) Bail as in the trial Court with fresh bond.

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

[ANIL S. KILOR, J.]