

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

CRIMINAL APPLICATION NO. 131 OF 2022

IN

CRIMINAL APPEAL NO. 96 OF 2022

Manish Babarao Shivankar

Vs.

State of Maharashtra and Anr.

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

Court's or Judge's orders.

Shri Rohan Chhabra, Advocate for the appellant
Shri M. J. Khan, APP for the State
Shri R. R. Prajapati, Advocate for respondent No. 2

CORAM : G.A. SANAP J.

DATE : AUGUST 23, 2022.

This is an application for suspension of substantive sentence awarded by the learned Special Judge, Bhandara on 29/01/22 in Special (POCSO) Case No. 41 of 2018. The learned Special Judge convicted the appellant for the offences punishable under Sections 354-A(1)(i) and 452 of the Indian Penal Code (For short 'IPC') and Section 8 of the Protection of Children From Sexual Offences Act, 2012 (For short 'POCSO Act'). On both the counts, the appellant has been sentenced to undergo imprisonment for three years. No separate sentence has been awarded under Section 354-A(1)(i) of the IPC. The sentences are ordered to run concurrently.

2] The learned Advocate for the appellant submitted that the fine amount has been deposited. It is stated that during the course of the trial the appellant was on bail. The appellant has not misused the liberty granted to him. The learned Advocate submits that considering the quantum of substantive sentence, the learned Special Judge has suspended the substantive sentence on the date of the Judgment and Order itself. The learned Advocate further submits that the appeal may take its own time to reach the stage of final hearing. He, therefore, prayed that the substantive sentence may be suspended.

3] I have heard Mr M. J. Khan, learned APP for the State as well as Mr. R. R. Prajapati, learned Advocate for the respondent No.2. It is submitted on behalf of respondent No.2 that considering the seriousness of the crime the appeal be taken up for final hearing.

4] I have gone through the record and proceedings. Undisputedly, the appellant was on bail during the pendency of the trial. There is no grievance that during the pendency of the trial the appellant misused the liberty. It is undisputed that

the learned Special Judge on the date of the judgment itself suspended the substantive sentence. Considering the facts and circumstances, it would be just and proper to grant this application. Accordingly, the application is allowed.

5] The substantive sentence shall remain suspended during the pendency of the appeal. The personal bond and the surety submitted by the appellant to continue.

6] The appellant during the pendency of the appeal shall not threaten or pressurize the victim.

7] The criminal application stands **disposed of**, accordingly.

JUDGE

Namrata