

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

CRIMINAL APPEAL NO. 110/2022
IN
CRIMINAL APPLICATION (APPA) NO. 150/2022

Samadhan s/o Mahadeo Wankhade Vs State of Maha., thr. P.S.O., Civil Lines, Akola,
Tq. & Dist. Akola.

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

Court's or Judge's Order

Shri Mahesh Rai, counsel for the Appellant/Applicant.
Shri M.J.Khan, APP for the Respondent/State.

CORAM : ANIL S. KILOR, J.
DATED : 19/04/2022.

1. Heard Shri Mahesh Rai, learned counsel for the appellant and Shri M.J.Khan, learned APP for the respondent / State. None appeared for the respondent No.2, though served.
2. Heard.
3. **Admit.**
4. Call for record and proceedings.
5. Shri M.J.Khan, learned APP waives notice for respondent /State.

CRIMINAL APPLICATION (APPA) NO. 150/2022

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

2. The applicant has been convicted by the learned Extra Joint District Judge and Additional Sessions Judge, Akola, vide its judgment and order dated 11/02/2022, passed in Sessions Trial No. 54/2020, for the offence punishable under Sections 354 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs. 5000/-, in default of payment of fine, he shall suffer further simple imprisonment for three months.

The applicant is also convicted for the offence punishable under Section 354-A(iv) of the Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs. 1000/-, in default of payment of fine, he shall suffer further simple imprisonment for one month.

The applicant has been further convicted for the offence punishable under Section 354-D of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs. 5000/-, in default of payment of fine, he shall suffer further simple imprisonment for three months.

The applicant is convicted for the offence punishable under Section 452 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for seven years and to pay fine of Rs. 5000/-, in default of payment of fine, he shall suffer further simple imprisonment for three months.

The applicant has further convicted for the offence punishable under Section 506 (II) of the Indian Penal Code and sentenced to suffer rigorous imprisonment for seven years and to

pay fine of Rs. 5000/-, in default of payment of fine, he shall suffer further simple imprisonment for three months.

The applicant has lastly being convicted for the offence punishable under Section 7, punishable under Section 8 of the Protection of Children from Sexual Offences Act and sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs. 5000/-, in default of payment of fine, he shall suffer further simple imprisonment for three months.

3. Learned counsel for the applicant has pointed out that the applicant was on bail during the trial. He has further submits that he has very good case on merit and there is every likelihood that he would succeed in the present matter.

4. On the other hand, learned APP opposes the present application.

5. I have perused the impugned judgment and findings recorded by the learned trial Court, I am of the opinion that in this case re-appreciation and reappraisal of the evidence is necessary. Moreover, as there is no likelihood that this matter would come up for hearing in near future, the present application needs to be allowed. Hence, I pass the following order:

i] Criminal application is **allowed**.

ii] The substantive sentence imposed by the learned Extra Joint District Judge and Additional Sessions Judge, Akola in Sessions Trial No.54/2020, vide judgment dated 11/02/2022, is suspended till disposal of the appeal;

iii] The applicant shall be released on bail on executing P.R. Bond for Rs.15,000/- with one solvent surety in the like amount.

The Criminal Application is **disposed** of, accordingly.

[JUDGE]

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