

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

CRIMINAL APPLICATION (APPA) NO.152 OF 2022

IN

CRIMINAL APPEAL NO.111 OF 2022

(PRAFUL VITTHALRAO SURJUSE.....VS.. STATE OF MAH. THR. PSO PS KHARANGANA, DIST.
WARDHA & ANR.)

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

Court's or Judge's orders

Shri Mahesh V. Rai, Advocate for Applicant/Appellant.
Shri T.A.Mirza, A.P.P. for Respondent/State.

CORAM : ANIL S. KILOR, J.
DATED : APRIL 21, 2022.

1. Heard learned counsel for the applicant and learned A.P.P. for the respondent/State. None for the respondent No.2, though served.

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

3. In this case, the applicant has been convicted for the offence punishable under Section 376 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for Ten years and to pay a fine of Rs.25,000/- and in default to suffer rigorous imprisonment for nine months. He is also convicted for the offence punishable under Section 506 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for seven years and to pay a fine of Rs.10,000/- and in

default to suffer rigorous imprisonment for two months.

4. Shri Rai, learned counsel for the applicant submits that the applicant is having a very good case on merits and there is every likelihood that he would succeed in the present matter. He further submits that the applicant was on bail during the trial. On merit, he has submitted that there was a delay of 22 days in lodging the report, which has not been explained by the victim. He further submits that there was a consensual physical relations, which has not been considered by the learned trial Court.

5. Shri Mirza, learned A.P.P. has opposed the present application.

6. I have perused the findings recorded by the learned Sessions Court while convicting the applicant. The learned A.P.P. is not disputing that the applicant was on bail during the trial. Moreover, having perused the findings recorded by the learned Sessions Court, I am of the opinion that reappraisal and reappraisal of the evidence is necessary in this case. There is no likelihood that this matter would come up for final hearing in near-future. In that view of the matter, I pass the following order:

i) The application is allowed.

ii) The substantive sentence imposed upon the

applicant vide judgment and order dated 21/01/2022 is hereby suspended.

- iii) The applicant/ appellant shall be released on bail on his executing P.R. Bond in the sum of Rupees Fifteen Thousand with one solvent surety in the like amount.

The application is **disposed of** accordingly.

JUDGE

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