

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

CRIMINAL APPLICATION (APPA) NO.191 OF 2022
IN
CRIMINAL APPEAL NO.151 OF 2022

Ashwin Yadav Wankhede

Vs.

The State of Maharashtra, through Police Station Officer, Police Station, Shirpur,
Dist. Washim and another

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

Court's or Judge's orders

Mr. Rahul Kurekar, Advocate for appellant.
Mr. S. M. Ghodeswar, APP for respondent no.1/State.
Mr. Sumit Joshi, appointed Advocate for respondent no.2.

CORAM : AVINASH G. GHAROTE, J.

DATE : 08/07/2022

1. Heard Mr. Kurekar, learned counsel for the appellant, Mr. Ghodeswar, learned APP for the respondent no.1/State and Mr. Sumit Joshi, learned appointed counsel for the respondent no.2.

2. This application seeks suspension of sentence and grant of bail.

3. The appellant has been convicted by the learned Sessions Court for the offence punishable under Sections 363, 366, 376(2)(i) of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act (PoCSO) by the impugned judgment dated 18.2.2022 and sentenced to suffer rigorous

imprisonment for ten years and various other sentences as indicated therein.

4. Mr. Kurekar, learned counsel for the appellant by inviting my attention to the evidence of PW-1 the victim at Exh.16 and so also the evidence of PW-7 the Medical Officer who has examined her and given the report at Exh.38, submits that the report at Exh.38 is not sufficient to prove the charge against the appellant. The appellant was on bail during the trial and fine amount has already been paid. He therefore, submits that the learned Sessions Court has misdirected itself in appreciating the evidence which has come on record due to which, the application is liable to be allowed.

5. Mr. Ghodeswar, learned APP for the respondent no.1/State as well as Mr. Joshi, appointed learned counsel appearing for the respondent no.2 vehemently oppose the application and submit that the material indicates the complicity of the appellant and therefore, he should not be enlarged on bail.

6. Considering that the appellant was on bail throughout the trial; the fine has been paid; the evidence of PW-1/victim coupled with the evidence of PW-7 Medical Officer and Exh.38 the medical report, a case for

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suspension of sentence is made out. Hence the following order.

ORDER

The sentence imposed upon the appellant is hereby suspended. He be released on bail on his executing P.R. bond in the sum of Rs.50,000/- with two solvent sureties in the like amount.

JUDGE

Sarkate