

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

CRIMINAL APPEAL NO.164 OF 2022

Amar Anand Ajaykumar Yadao

Versus

State of Maharashtra, through P.S.O., P.S. Gittikhadan, Dist. Nagpur 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 R.M. Daga, Advocate for the applicant.

Shri S.D. Sirpurkar, A.P.P. for the non-applicant No.1/State.

Ms S.P. Deshpande, Advocate for the non-applicant No.2 (Appointed).

CORAM : ANIL S. KILOR, J.

DATED : 29/04/2022

Heard.

2. **Admit.**

3. Shri Sirpurkar, learned APP waives service of notice to the respondent No.1/State and Ms Deshpande, learned counsel waives service of notice to the respondent No.2.

CRIMINAL APPLICATION (APPA) NO.206 OF 2022

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

5. The appellant has convicted under Section 363 of the Indian Penal Code and sentenced to suffer Rigorous Imprisonment for three years and to pay fine of Rs.3,000/-,

in default to suffer Rigorous Imprisonment for three months.

The appellant has further convicted under Section 376 of the Indian Penal Code and sentenced to suffer Rigorous Imprisonment for ten years and to pay fine of Rs.25,000/-, in default to suffer Rigorous Imprisonment for one year.

The appellant has further convicted under Section 354 of the Indian Penal Code and sentenced to suffer Rigorous Imprisonment for two years and to pay fine of Rs.2,000/-, in default to suffer Rigorous Imprisonment for one month.

The appellant has further convicted under Section 354-D of the Indian Penal Code and sentenced to suffer Rigorous Imprisonment for two years and to pay fine of Rs.2,000/-, in default to suffer Rigorous Imprisonment for one month.

The appellant has further convicted under Section 506 of the Indian Penal Code and sentenced to suffer Rigorous Imprisonment for three years and to pay fine of Rs.3,000/-, in default to suffer Rigorous Imprisonment for three months.

6. The learned counsel for the applicant submits that there was a delay of three months in lodging the report and if the evidence available on record is considered, the applicant is having very good case on merit and there is

every likelihood that he would succeed in the present matter. He further submits that the applicant was on bail throughout the trial since the year 2015, till the impugned judgment and order was passed and there is no complaint about abuse of concession.

7. On the other hand, learned APP and learned counsel for the respondent No.2 opposed the prayer made by the applicant.

8. Having considered the findings recorded by the learned Sessions Court in convicting the applicant, I am of the opinion that in this case re-look of the evidence is necessary. There is no likelihood that this matter would come up for final hearing in near future. The applicant was on bail since, 2015, till the passing of the impugned judgment and order. Furthermore, looking to the age of the applicant, I am of the opinion that the present application needs to be allowed. Accordingly, I pass the following order:

- a) The criminal application is **allowed**.
- b) The substantive sentence imposed by the learned Extra Joint Additional Sessions Judge, (Special Judge, POCSO Court), Nagpur in Spl. Cri. (Child) Case No.129 of 2015 vide judgment and order dated 28.02.2022, is

suspended till disposal of the appeal. Bail as in the trial Court with fresh bond.

- c) Ms S.P. Deshpande, learned counsel for the respondent No.2 (Appointed) is entitled to receive his professional charges from the High Court Legal Services Sub-Committee, Nagpur, which I quantify Rs.2,500/-.

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

[ANIL S. KILOR, J.]