

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

CRIMINAL APPLICATION (APPA) NO. 248 OF 2022
IN
CRIMINAL APPEAL NO. 200/2022

Sachin s/o Anandrao Kulsange .Vs. State of Maharashtra, thr. PSO., P.S. Ralegaon,
Dist. Yavatmal 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 appellant.

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

CORAM : ANIL S. KILOR, J.
DATED : 09/12/2022.

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

2. The applicant is convicted for the offence punishable under Sections 363 of the Indian Penal Code, 1860 and is sentenced to suffer rigorous imprisonment for 5 years (five years) and to pay a fine of Rs.5,000/- (five thousand) and in default to suffer further simple imprisonment for 3 months.

The applicant is further convicted for the offence punishable under Section 376(2) of the Indian Penal Code, 1860 and is sentenced to suffer rigorous imprisonment for 10 years and to pay a fine of Rs.10,000/- (ten thousand) and in default to suffer further simple imprisonment for 6 months.

3. The appellant was throughout the bail during the appeal. After going through the cross-examination of the victim particularly para-5 of it and also after considering the findings recorded by the learned trial Court, I am of the view that revisit to entire evidence is necessary. Further considering the fact that, the appeal will not come up for hearing in near future, I am of the opinion that, the present application needs to be allowed. In the circumstances, I pass the following order:

- i. Criminal application is **allowed**.
- ii. The sentence imposed by the learned Additional Sessions Judge, (Special Court (POCSO Act), Yavatmal in Special (Child) Case No. 70/2020 vide judgment and order dated 17/02/2022, is suspended, till disposal of the appeal.
- iii. The order dated 06/05/2022 granting ad-interim relief to continue till disposal of the appeal.
- iv. The office is directed to place this matter for final hearing in regular course.

JUDGE