

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

Criminal Appeal No. 224 of 2022

1. Balurao Baburao Pawar
2. Vatsalabai Pather @ Mohan Pawar

Versus

State of Maharashtra, through Police Station Officer, Wadi, Dist. Nagpur
and anr.

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

Court's or Judge's Order

Shri M.N. Ali, Advocate for the appellant/applicant
Shri S.A. Ashirgade, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.
DATED : 12th APRIL, 2022.

Heard.

2. **Admit.**

3. Shri Ashirgade, learned APP waives service
of notice on behalf of respondent/State.

4. Call for the record and proceedings.

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Criminal Application (APPA) No. 279 of 2022

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

6. The applicant nos. 1 and 2 have filed appeal against conviction challenging the judgment and order dated 28th March, 2022 passed by the learned Extra Joint Additional Sessions Judge, (Special Judge, POCSO Court), Nagpur in Spl. Cri. (Child) Case No. 145 of 2014, convicting the appellant No.1 for the offence punishable under Section 354-A of Indian Penal Code and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.5,000/-, in default to suffer further rigorous imprisonment for three months.

7. Appellant no.1 further convicted for the offence punishable under Section 354-B of Indian Penal Code and sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs.10,000/-, in default to suffer further rigorous imprisonment for six months.

8. Appellant no.2 was convicted for the offence punishable under Section 354-A read with Section 109 of the Indian Penal Code and Section 17 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.5,000/-, in default to suffer further rigorous imprisonment for three months.

9. Appellant no.2 was further convicted for the offence punishable under Section 354-B read with Section 109 of the Indian Penal Code and Section 17 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs.10,000/-, in default to suffer further rigorous imprisonment for six months.

10. Appellant no.2 is further convicted for the offence punishable under Section 323 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three months and to pay fine of Rs.1,000/-, in default to suffer further rigorous imprisonment for one month.

11. Appellant no.2 is further convicted for the offence punishable under Section 21(2) of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.5,000/-, in default to suffer further rigorous imprisonment for three months.

12. I have perused the findings recorded by the learned Extra Joint Additional Sessions Judge, (Special Judge, POCSO Court), Nagpur in the impugned judgment and order and thereupon, I am of the opinion that appellants are having arguable case and re-

appreciation 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. Accordingly, I pass the following order:

- i. Criminal application is allowed.
- ii. The sentence imposed by the learned Extra Joint Additional Sessions Judge, (Special Judge, POCSO Court), Nagpur in Session Case No. 145 of 2014 vide judgment and order dated 28th March, 2022, is suspended till disposal of the appeal.
- iii. The appellants shall be released on bail on their executing P.R.Bond for Rs.15,000/- each with one solvent surety in the like amount for each of the appellants.
- iv. The appellants shall attend the concerned police station as and when their presence is required.

[ANIL S. KILOR, J.]