

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

CRIMINAL APPEAL NO.269 OF 2022

KISHOR S/O JAIDEO KHOBRADE
VS
STATE OF MAH. THR. PSO PS PAUNI TAH.PAUNI DIST.BHANDARA

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

Court's or Judge's Order

Shri J.K. Matale, Advocate for the appellant/applicant
Shri S.A. Ashirgade, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 28th April, 2022.

Heard.

2. Leave to add victim as party-respondent, is granted.
3. Amendment be carried out forthwith.
4. **Admit.**
5. Shri Ashirgade, learned APP waives service of notice on behalf of respondent/State.
6. Call for the record and proceedings.

Criminal Application (APPA) No.330 of 2022

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

8. The applicant has filed appeal against conviction challenging the judgment and order dated 04.04.2022 passed by the learned Extra Joint Additional Sessions Judge (Special Judge) POCSO Court, Bhandara in Special Case (Child Protection) No.39 of 2019, convicting the applicant for the offence punishable under Sections 341 and 354(A)(1)(i) of the Indian Penal Code and sentenced to suffer simple imprisonment for one month.

9. The applicant was further convicted for the offence punishable under Section 12 of the Protection of Children from Sexual Offences Act and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.1,000/-, in default to suffer further simple imprisonment for three months.

10. I have perused the findings recorded by the learned Sessions Court in the impugned judgment and order and thereupon, I am of the opinion that applicant is 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, Bhandara in Special Case (Child Protection) No.39 of 2019 vide judgment and order dated 04.04.2022, is suspended till disposal of the appeal.
- iii. Bail as in the trial Court with fresh Bonds.

[JUDGE]