

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

Criminal Application (APPA) No.380 of 2022
in
Criminal Appeal No. 313 of 2022

Dipal Gokulprasad Mishra

Versus

State of Maharashtra, through Police Station Officer, 123 P.S.
Hudkeshwar, Nagpur (Urban), Nagpur

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

Court's or Judge's Order

Shri L.B.Khergade, Advocate for the appellant.
Smt. S.S.Jachak, APP for the respondent/State.

CORAM : ANIL S. KILOR, J.
DATED : 20th MAY, 2022.

This is an application filed under Section 389 of Code of Criminal Procedure for suspension of sentence and grant of bail. The applicant has filed appeal against conviction challenging the judgment and order dated 18th April, 2022 passed by the learned Extra Joint District Judge and Additional Sessions Judge, Nagpur in Special Case (POCSO) No. 300 of 2019, convicting the appellant for the offence punishable under Section 506 of Indian Penal Code and sentenced

to suffer rigorous imprisonment for two years. Applicant was further convicted for the offence punishable under Section 12 of Protection of Children from Sexual Offence Act, 2012 and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.25,000/-, in default to suffer simple imprisonment for three months.

2. Shri Khergade, learned counsel for the applicant submits that he was on bail during the trial and there is no complaint about misuse of liberty. He further submits that sentence has already been suspended by the trial Court till filing of the appeal. He further submits that he is having a very good case on merit and there is every likelihood that he would succeed in the present appeal.

3. On the other hand Smt. Jachak, learned Additional Public Prosecutor opposes the present application.

4. I have perused the findings recorded by the learned Sessions Judge in the impugned judgment and order and thereupon, I am of the opinion that appellant is having arguable case and re-appreciation of the evidence is necessary in this case. There is no likelihood that this matter would come up for final

hearing in near future. There is one more reason to allow this application is that appellant was on bail during the trial. Accordingly, I pass the following order.

ORDER

- i. Criminal application is allowed.
- ii. The sentence imposed by the learned Extra Joint District Judge and Additional Sessions Judge, Nagpur in Special Case (POCSO) No. 300 of 2019 vide judgment and order dated 18th April, 2022, is suspended till disposal of the appeal.
- iii. Bail as in the trial Court with fresh bonds.

[ANIL S. KILOR, J.]

Digitally signed
by
SACHINDANAND
K NAIR
Date: 2022.05.20
14:47:47 +0530