

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

Criminal Appeal No. 409 of 2022

Ankit S/o Chandrabhan Sahare

Versus

The State of Maharashtra, through Police Station Officer, Police Station
Parshioni, 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 Vaibhav A. Dhaiwale, Advocate for the appellant.
Shri N.R.Rode, APP for the respondent/State.

CORAM : ANIL S. KILOR, J.
DATED : 23rd NOVEMBER, 2022.

Heard.

Admit.

Call record and proceedings.

Shri Rode, learned Additional Public
Prosecutor waives service of notice on behalf of
respondent/State.

None for the respondent no.2, though
notice is served.

Criminal Application (APPA) No. 498 of 2022

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

The applicant has filed an appeal challenging the judgment and order dated 31st March, 2022 passed by the learned Extra Joint District Judge-1 and Additional Sessions Judge, Special Court (POCSO), Nagpur in Special POCSO Case No. 39 of 2021, convicting the appellant for the offence punishable under Sections 323 of Indian Penal Code and sentenced to suffer imprisonment for six months and to pay fine of Rs.500/- in default simple imprisonment for 15 days. He has been further convicted for the offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer imprisonment for three years and to pay fine of Rs.1000/- in default simple imprisonment for 15 days. He has been further convicted for the offence punishable under Section 12 of Protection of Children from Sexual Offences Act and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.500/- in default simple imprisonment for 15 days.

2. Shri Dahiware, learned counsel for the applicant submits that the applicant was on bail during the trial. He further submits that applicant is having a very good case and there is every likelihood that he would succeed in the present appeal.

3. On the other hand Shri Rode, learned Additional Public Prosecutor opposes the present application.

4. I have perused the findings recorded by the learned Sessions Judge 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. Accordingly, I pass the following order.

ORDER

- i. Criminal application is allowed.
- ii. The sentence imposed by the learned Extra Joint District Judge-1 & Additional Sessions Judge, Special Court (POCSO), Nagpur in Special POCSO Case No. 39 of 2021 vide judgment and order dated 31st March, 2022, is suspended till disposal of the appeal.

iii. Bail as in the trial Court with fresh bonds.

[ANIL S. KILOR, J.]

SACHINDANAND
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