

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

CRIMINAL APPLICATION [APPA] NO.512 OF 2022

IN

CRIMINAL APPEAL NO.419 OF 2022

[Ajay s/o Wasudeo Kajbe .vs. State of Maharashtra and one]

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri S.A. Chaudhari, Advocate for Applicant-Appellant,
Shri A.M. Kadukar, APP for Respondent No.1-State,
Ms. Deepa I. Charlewar, Advocate for Respondent No.2.

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CORAM : SMT. M.S. JAWALKAR, J.

DATED : 27/09/2022.

Present application is filed by the applicant-appellant for suspension of sentence pending the decision of appeal and release the applicant on bail.

2. It appears that the applicant was convicted for the offence punishable under Section 376 of the Indian Penal Code and Section 4 of the Protection of Children from Sexual Offences Act, 2012, so also under Sections 363, 366-A, 506 of the Indian Penal Code by the learned Additional Sessions Judge, Mangrulpir in Special Child Case No.23/2016, dated 24.05.2022. At the relevant time, the age of the applicant was 22 years and the age of the victim was 17 years and 8 months.

3. Learned Additional Public Prosecutor for the respondent no.1-State and the learned counsel for respondent no.2 opposed the application.

4. I have gone through the copies of evidence placed on record. *Prima facie*, it appears that the possibility of consensual relationship cannot be ruled out. Considering the pendency, it would be difficult to take up the matter on priority basis in near future. The applicant was on bail during the trial. There is no incidence of misuse of liberty granted to him. As such, I am inclined to allow the application. Accordingly, I pass the following order :

ORDER

- (i) The execution of substantive sentence passed by the learned Additional Sessions Judge, Mangrulpir in Special Child Case No.23/2016, dated 24.05.2022 is hereby suspended.
- (ii) Applicant-accused be released on the same terms and conditions on which he was released by the Sessions Court.
- (iii) Applicant-accused to furnish bail bond & surety to the Satisfaction of the Sessions Court, within two weeks.
- (iv) Application is allowed and disposed of.

[SMT. M.S. JAWALKAR, J.]

Gulande