

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

CRIMINAL APPLICATION (APPA) NO.439/2021 IN
CRIMINAL APPEAL NO.322/2021
Dharmendra s/o Sopan Kamble

..VS..

State of Mah., thr.PSO Dongaon, District Buldana

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

Court's or Judge's Order

.....
Shri P.H.Khobragade, Counsel for the Applicant.
Mrs.M.A.Barabde, Addl.P.P. for the State.

CORAM : V.M.DESHPANDE &
AMIT B.BORKAR, JJ.

DATED : APRIL 13, 2022

1. This is an application under Section 389 of the Code of Criminal Procedure for suspension of substantive jail sentence and for grant of bail.
2. Heard learned counsel Shri P.H.Khobragade appointed through the High Court Legal Services Sub Committee at Nagpur to represent the applicant and learned Additional Public Prosecutor Mrs.M.A.Barabde for the State.
3. By judgment and order of conviction dated 20.1.2021 passed by learned Special Judge Mehkar, district Buldana in Special (POCSO) Case No.189/2019, the applicant is convicted for offences punishable under Section 376(2)(f)(k)(l) of the Indian Penal Code and sentenced to suffer rigorous imprisonment for life which according to the direction is remainder period of his natural life.
4. The applicant is father of victim. The victim was examined as PW3. From evidence of the victim, it is clear that the applicant that is the father used to habituate to drinking and on date of incident he committed forceful sex with her.

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5. Learned Judge below considering evidence of the victim and also other evidence found the applicant guilty.

6. The applicant was not on bail during trial.

7. Considering the entire prosecution case, *prima facie*, we are of view that no case is made out for showing any discretion in favour of the applicant. Hence, the criminal application is rejected and disposed of.

8. Fees payable to learned counsel Shri P.H.Khobragade appointed through the High Court Legal Services Sub Committee at Nagpur to represent the applicant are quantified at Rs.3500/- for arguing the present application.

JUDGE

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JUDGE