

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

CRIMINAL APPLICATION (APPA) NO. 510 OF 2022

IN

CRIMINAL APPEAL NO. 417 OF 2022

Dipak Tukaram Thaware vs. State of Maharashtra and another

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

Court's or Judge's Orders.

Mr. S. G. Karmarkar, Advocate for applicant.
Ms. Kalyani Deshpande, APP for respondent No.1 State.
Ms. Seema Dhotre, Advocate(Appointed) for respondent
No.2.

CORAM : G. A. SANAP J.

DATE : 18/10/2022

This is an application for suspension of substantive sentence. The accused is convicted for the offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as 'POCSO Act') and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.5000/- and in default to suffer further rigorous imprisonment for three months.

2. The learned trial Judge on the date of the judgment and order was pleased to suspend the

substantive sentence. It is seen from the record that the appellant has deposited the fine.

3. This Court on the first date of hearing of this appeal by way of ad-interim order suspended the substantive sentence. Perusal of the record would show that hearing of the appeal would take its own time. There is no grievance of misuse of the liberty by the appellant during the pendency of the trial.

4. The learned Advocate for the respondent No.2 submits that the appellant is the neighbor of the victim and if he is granted freedom by suspending the sentence, the possibility of commission of the same crime cannot be ruled out.

5. In my opinion, on the basis of this submission, the prayer made in this application cannot be rejected. But, at the most an appropriate condition to safeguard the interest of the victim and her family members can be imposed.

6. Accordingly, the application is allowed.

7. The ad-interim order suspending the sentence is confirmed on the same terms and conditions.

8. The applicant/accused is ordered to be released on bail on the basis of the same surety submitted pursuant to the order of this Court.

9. The applicant/appellant during the pendency of the appeal shall not pressurize or threaten the victim and her family members.

10. Application is disposed of.

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Admit.

2. Call Record and Proceedings.

3. Issue notice to the respondents, returnable in **four weeks**.

4. The learned APP waives service of notice on behalf of respondent No.1. The learned Advocate(appointed) Ms.Seema Dhotre waives service of notice on behalf of respondent No.2.

JUDGE