

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

Criminal Application No. 651 of 2022

in

Criminal Appeal No. 507 of 2022

Mazhar Khan S/o Altaf Khan

Versus

**State of Maharashtra, through Police Station Officer,
Police Station Sewagram, Wardha 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 S.S.Ullah, Advocate for the applicant.

Shri S.M.Ghodeshwar, APP for the non-applicant.

CORAM : ANIL S. KILOR, J.

DATED : 4th OCTOBER, 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 1st July, 2022 passed by the learned Extra Joint Additional Sessions Judge, (Special Court), Wardha in Sessions Case No. 97 of 2016, convicting the appellant for the offence punishable under Section 12 of Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.1,000/-, in default of payment

of fine accused to undergo simple imprisonment for one month. He is further convicted for the offence punishable under Section 366 read with Section 34 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs.2000/- in default to suffer further simple imprisonment for two months.

2. Shri Ullah, learned counsel for the applicant submits during the trial he is on bail since October, 2015 till the conviction in July, 2022. 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, Shri Ghodheswar, 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 Additional Sessions Judge (Special Court), Wardha in Session Case No. 97 of 2016 vide judgment and order dated 1st July, 2022, is suspended till disposal of the appeal.
- iii. Bail as in the trial Court with fresh bonds.

[ANIL S. KILOR, J.]

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