

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

CRIMINAL APPLICATION (APPA) NO.761 OF 2022

The State of Maharashtra, thr. P.S.O.

..VS..

Surendra Wasudevrao Alone

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

Court's or Judge's orders

Shri I.J. Damle, A.P.P. for the applicant.

CORAM:VINAY JOSHI AND MRS. VRUSHALI V. JOSHI, JJ.
DATED : 19/10/2022.

The respondent no. 1 – Accused though served remained absent.

2. Heard.

3. The State is seeking leave to file appeal challenging the order of acquittal in Special Case No. 242 of 2017 whereby the respondent/accused was acquitted for the offence punishable under Sections 354-A, 376(2)(i) of the Indian Penal Code and Sections 4,6 and 10 of the Protection of Children From Sexual Offences Act, 2012.

4. Learned A.P.P. has criticized the impugned judgment by stating that the Trial Court erred in appreciating the evidence. He took us through the paragraphs 17 and 18 of the judgment to contend that the Trial Court has unnecessarily stressed on the need of corroborative evidence. It is argued that the prosecution has examined two minor victims who have specifically stated the occurrence.

5. In the light of the above submission, we have gone

through the evidence of both minor victims who are in between 5 to 6 years of age. Both victims deposed that the accused took them in cattle shade and had sexually exploited.

6. Learned A.P.P. has also submitted that in view of the amended definition of the term “rape” as defined under Section 375 of the Indian Penal Code, corroboration of medical evidence is not a must.

7. Having regard to the evidence of two minor victims and reasons assigned by the Trial Court, we deem it necessary to reconsider the entire issue.

8. In view of that it is a fit case to grant leave and accordingly, we grant a **leave** to file appeal.

9. The Application stands disposed of accordingly.

CRIMINAL APPEAL NO. _____ OF 2022

Heard. **ADMIT.**

2. Call for the Records and Proceedings.

3. Action under Section 390 of the Code of Criminal Procedure shall follow.

4. The Trial Court shall release the respondent no.1 (accused) Surendra Wasudevrao Alone on bail on his furnishing P.R. bond of Rs.15,000/- with one surety in the like amount.

(MRS. VRUSHALI V. JOSHI, J.)

(VINAY JOSHI, J.)