

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

CRIMINAL APPLICATION (APPA) NO.700 OF 2022 IN
CRIMINAL APPEAL NO.545 OF 2022

RAHUL S/O MANOHAR BORKAR

VS

STATE OF MAH. THR. PSO PS KOTHARI TAH.BALLARPUR DIST.CHANDRAPUR 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 R.K. Borkar, Advocate for applicant

Shri S. D. Sirpurkar, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 25.11.2022.

1. This is an application filed under Section 389(2) of the Code of Criminal Procedure for suspension of sentence and grant of bail.
2. The applicant was convicted for the offence under Section 4 of the Protection of Children from Sexual Offences Act, 2012 R/W Sec. 376(2)(i)(j)(n) of the Indian Penal Code and sentenced to suffer rigorous imprisonment for twenty years and to pay fine of Rs.15,000/-, in default to pay fine, further to suffer rigorous imprisonment for six months.
3. Considering the findings recorded by the learned trial Court in para No.19 of the judgment which categorically states that except the victim's statement,

there is no other evidence to support the case of the prosecution. Thus, it appears that only on the basis of the statement of the victim and in absence of any corroborative evidence, the trial Court convicted the appellant and sentenced him for twenty years rigorous imprisonment.

4. Thus, considering the fact that there is no corroborative evidence to support the evidence of the victim, I am of the opinion that it is necessary to re-look the entire evidence. There is no likelihood that this matter would come up for final hearing in near future. There is one more ground is that the applicant was on bail during the trial. Accordingly, I pass the following order:

- i. Criminal application is **allowed**.
- ii. The sentence imposed by the learned Special Court (POCSO), Chandrapur in Spl. (POCSO) Case No.29 of 2016 vide judgment and order dated 25.07.2022, is suspended, till disposal of the appeal.
- iii. Bail as in the trial Court with fresh Bonds.

[JUDGE]