

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

CRIMINAL APPLICATION (APPA) NO. 732/2022 IN
CRIMINAL APPEAL NO. 569 OF 2022

Yashwant Gangaramji Tayade V/s The State of Maharashtra, thr. PSO., PS. Gadge Nagar, Amravati 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.Siddharth, Advocate h/f Shri P.V. Navlani, Advocate for the applicant/appellant.

Shri S.D.Sirpurkar, APP for the respondent No.1/State.

Shri A.G.Hunge, Advocate for respondent No.2 (Appointed)

CORAM : ANIL S. KILOR, J.

DATED : 07/10/2022.

1. This is an application filed under Section 389 of the Code of Criminal Procedure for suspension of sentence.

2. The applicant/appellant has been convicted for the offences punishable under Sections 354, 354-A(1)(i) of the Indian Penal Code and Sections 7, 8, 11 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), as per Section 235(2) of the Code of Criminal Procedure. The applicant is sentenced to suffer R.I. for the offence punishable under Section 8 of POCSO Act for three years and to pay a fine of Rs. 3,000/-, in default of fine amount, the applicant undergo R.I. for three months. The applicant is also sentenced to suffer R.I. for the offence punishable under Section 12 of POCSO Act for

three years and to pay fine of Rs. 2000/-, in default of fine amount, the applicant has undergone R.I. for two months.

3. The applicant/appellant was on bail during the pendency of trial.

4. I have perused the impugned judgment and order and findings recorded by the learned trial Court, I am of the opinion that in this case re-appreciation and reappraisal of the evidence is necessary. Moreover, as there is no likelihood that this matter would come up for hearing in near future, the present application needs to be allowed. Hence, I pass the following order:

- i] Criminal application is **allowed**.
- ii] The substantive sentence imposed by the learned Special Judge under POCSO Act, Amravati in Special Case (Children Protection) No. 93/2017 vide judgment dated 30/07/2022, is suspended till disposal of the appeal;
- iii] Bail as in the trial Court with fresh bonds.

[ANIL S. KILOR, J.]