

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

**Criminal Application No. 767 of 2022
in
Criminal Appeal No.598 of 2022**

Devidas S/o Uttam Dhoke

Versus

State of Maharashtra, through its Police Station Officer, Police Station
Patur, Tah. Patur, District Akola 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 M.P.Kariya, Advocate for the appellant.

Shri V.A.Thakare, APP for the respondent/State.

Ms. Priyanka Arbat, appointed Advocate for the
respondent no.2.

CORAM : ANIL S. KILOR, J.

DATED : 15th DECEMBER, 2022.

This is an application for suspension of
sentence and for grant of bail filed under Section 389 of
Code of Criminal Procedure.

2. The applicant has filed an appeal
challenging the judgment and order dated 12th August,
2022 passed by the learned Additional Sessions Judge,
Akola in Sessions Trial No. 65 of 2016, convicting the

applicant for the offence punishable under Section 376, 450 and 506 of Indian Penal Code as well as under Section 4 and 5(j), 2(l) read with Section 6 of Protection of Children from Sexual Offences Act and sentenced to suffer Rigorous imprisonment for ten years and fine of Rs.10,000/- and in default to suffer simple imprisonment for one month. He is further convicted for the offence punishable under Section 5(j), 2(l) read with Section 6 of Protection of Children from Sexual Offences Act and sentenced to suffer Rigorous imprisonment for ten years and shall pay fine of Rs.20,000/- in default to suffer simple imprisonment for two months. He is further convicted for the offence punishable under Section 450 of Indian Penal Code and sentenced to suffer Rigorous imprisonment for three years and shall pay fine of Rs.500/- in default to suffer simple imprisonment for ten days. He is further convicted for the offence punishable under Section 506 of Indian Penal Code and sentenced to suffer Rigorous imprisonment for one year and shall pay fine of Rs.500/- in default to suffer simple imprisonment for ten days

3. Shri Kariya, learned counsel for the applicant submits that applicant was on bail during the trial. He further submits that applicant is having a very

good case and there is every likelihood that he would succeed in the present appeal.

4. On the other hand Shri Thakare, learned Additional Public Prosecutor on behalf of respondent/State opposes the present application.

5. Considering the nature of evidence brought on record in relation to age proof and further considering that DNA report is negative particularly in the light of specific allegations made by the victim against the applicant that she has physical relations with the applicant and she got pregnant because of the applicant, I am of the opinion that detailed examination of the evidence brought on record by the prosecution is necessary and at the same time re-appreciate to the oral as well as documentary evidence is necessary. The applicant was on bail through out the trial and there is no complaint of misuse of liberty by the applicant. In addition to the same, as there is no likelihood that this matter would come up for final hearing in near future. Accordingly, I pass the following order.

ORDER

i. Criminal application is allowed.

- ii. The sentence imposed by the learned Additional Sessions Judge, Akola in Sessions Trial No. 65 of 2016 vide judgment and order dated 12th August, 2022, is suspended till disposal of the appeal.
- iii. Bail as in the trial Court with fresh bonds.

[ANIL S. KILOR, J.]

SACHINDANAND
K NAIR

Digitally signed
by
SACHINDANAND
K NAIR
Date: 2022.12.16
11:09:49 +0530