

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

CRIMINAL APPLICATION (APPA) NO. 790 OF 2022
IN CRIMINAL APPEAL STAMP NO. 7197 OF 2022

Mangesh Renurao Pakhale.Vs. State of Maharashtra, through Officer incharge P.S. Yavatmal Rural Tah. & Dist. Yavatmal 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 J.S. Wankhede, Advocate for the applicant.

Shri S.D.Sirpurkar, A.P.P. for the non-applicant No.1/State.

CORAM : ANIL S. KILOR, J.
DATED : 09/12/2022.

From the reasons stated in the application, I am satisfied that sufficient cause is shown by the applicant for condonation of delay. In the circumstances, though the learned APP is opposing the present application for condonation of delay, considering the reasons given in the application, criminal application is allowed.

The delay of 07 days in preferring the criminal appeal is condoned.

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1. Heard.
2. Admit
3. Shri S.D.Sirpurkar, learned APP waives service of notice for respondent No.1/State.
4. Call for record and proceedings.

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

6. The applicant is convicted for the offence punishable under Sections 452 of the Indian Penal Code, 1860 and is sentenced to suffer rigorous imprisonment for 3 years (three years) and to pay a fine of Rs.1,000/- (one thousand) and in default to suffer further simple imprisonment for 6 six months.

The applicant further convicted for the offence punishable under Section 354-A of the Indian Penal Code, 1860 and is sentenced to suffer rigorous imprisonment for 3 years (three years) and to pay a fine of Rs.1,000/- (one thousand) and in default to suffer further simple imprisonment for 6 months.

The applicant further convicted for the offence punishable under Section 8 of the POCSO Act and is sentenced to suffer rigorous imprisonment for 3 years (three years) and to pay a fine of Rs.3,000/- (three thousand) and in default to suffer further simple imprisonment for 6 months.

7. I have perused the findings recorded by the learned Additional Sessions Judge, (Special Judge, (POCSO Act), Yavatmal in the impugned judgment and order and thereupon, I am of the opinion that applicant is having arguable case and re-appreciation and reappraisal 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 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 Additional Sessions Judge, (Special Court (POCSO Act), Yavatmal in Special (Child) Case No. 75/2020 vide judgment and order dated 23/06/2022, is suspended, till disposal of the appeal.
- iii. Bail as in the trial Court with fresh Bonds.

JUDGE