

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR
CRIMINAL APPLICATION (APPA) NO. 840/2022 IN
CRIMINAL APPEAL NO. 642 /2022

Yash Laxmiprasad Bhoyar V/s The State of Maharashtra, thr. PSO., PS. Hudkeshwar 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.M.Daga, Advocate for the applicant/appellant.
Ms K.R.Deshpande, APP for the respondent No.1/State.
Shri R.U. Vyawahare, Advocate for respondent No.2.

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 and grant of bail.
2. The applicant has been convicted for the offence punishable under Section 363 of the Indian Penal Code vide Section 235(2) of the Code of Criminal Procedure and sentenced to suffer R.I. for one year and to pay fine of Rs. 2000/-, in default, to suffer further R.I. for 15 days and further convicted for the offence punishable under Section 376(2)(n) of the Indian Penal Code, vide Section 235(2) of the Code of Criminal Procedure and sentenced to suffer R.I. for ten years and to pay fine of Rs. 5000, in default, to suffer further R.I. for six months.

3. The applicant was on bail throughout the trial and there are no complaints of misuse of liberty by the applicant.

4. From the record, it appears that there was love affair between the victim and the accused. Furthermore, considering the age of the victim and the applicant and the reasons recorded by the learned trial Court for conviction, 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 Extra Joint Additional Sessions Judge, (Special Judge, POCSO Court) Nagpur in Special Criminal (Child) Case No. 148/2019 vide judgment dated 21/09/2022, is suspended till disposal of the appeal;
- iii] Bail as in the trial Court with fresh bonds.

[ANIL S. KILOR, J.]