

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

CRIMINAL APPEAL NO.666 OF 2022

MAYUR S/O YASHWANT KULLARKAR VS. STATE OF MAHARASHTRA THROUGH PSO
MOUDA

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.M. Jaltare, Advocate for applicant
Shri N.R. Rode, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 23.12.2022.

Heard.

2. **Admit.**

3. The learned APP waives service of notice on behalf of respondent/State.

4. Call for the record and proceedings.

Criminal Application No.878 of 2022

5. This is an application filed under Section 389(2) of the Code of Criminal Procedure for suspension of sentence and grant of bail.

6. The applicant was convicted for the offence punishable under Section 376 of the Indian Penal Code

and sentenced to suffer rigorous imprisonment for ten years and to pay fine of Rs.10,000/-, in default to pay fine, further to suffer simple imprisonment for one year.

7. In this case, the applicant has already undergone about four years of imprisonment, whereas he was sentenced to suffer rigorous imprisonment for ten years.

8. I have perused the findings recorded by the learned trial Court 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. Since the applicant has already undergone the substantive sentence about four years and there is no likelihood that this matter would come up for final hearing in near future, I pass the following order:

- i. Criminal application is **allowed**.
- ii. The sentence imposed by the learned Extra Additional Sessions Judge-13 Nagpur in Sessions Case No.374 of 2019 vide judgment and order dated 22.08.2022, is suspended, till disposal of the appeal.
- iii. The applicant shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with a solvent surety in the like amount, before the trial Court.

iv. The applicant shall not enter into the territorial jurisdiction of village Marodi, Taluka : Mauda, District : Nagpur, till culmination of the trial.

The application is **disposed of** accordingly.

[JUDGE]