

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

**CRIMINAL APPLICATION (APPA) NO.884 OF 2022**  
**IN**  
**CRIMINAL APPEAL NO.680 OF 2022**

ANIL S/O KASHIRAO NATHE  
VS  
STATE OF MAH. THR. PSO KALMESHWAR NAGPUR AND ANOTHER

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

Court's or Judge's Order

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Shri Mahesh Rai, Advocate for applicant  
Shri S.D. Sirpurkar, APP for the State / Non-applicant  
Shri A.M. Balpande, Adv. for the victim (appointed)

**CORAM : ANIL S. KILOR, J.**

**DATED : 09.12.2022.**

1. This is an application filed under Section 389(2) of the Code of Criminal Procedure for suspension of sentence and grant of bail.
2. The applicant was convicted for the offence under Section 363 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.2,000/-, in default to pay fine, further to suffer rigorous imprisonment for 15 days.
3. The applicant was further convicted for the offence under Section 6 of the Protection of Children from Sexual Offences Act, 2012 of the Indian Penal

Code and sentenced to suffer rigorous imprisonment for ten years and to pay fine of Rs.5,000/-, in default to pay fine, further to suffer rigorous imprisonment for six months.

4. In this case, the victim refused to file any reply, however, the father of the victim has filed reply and he is opposing the present application.

5. It is informed that after marriage the victim has settled her life. The father of the victim has expressed an apprehension that the applicant may trouble the victim, if the sentence is suspended. However, on a specific query, whether during the period when the applicant was on bail there is any complaint about misuse of liberty or any complaint about threats given or any problem created in the life of the victim, the learned counsel for the victim, fairly states that there is no such complaint.

6. 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. 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 Extra Joint Additional Sessions Judge, (Special Judge, POCSO Court), Nagpur in Spl. Cri. (Child) Case No.206 of 2017 vide judgment and order dated 30.09.2012, is suspended, till disposal of the appeal.
- iii. Bail as in the trial Court with fresh Bonds.

**[JUDGE]**