

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

**Criminal Application (APPA) No. 977 of 2022
in
Criminal Appeal No. 759 of 2022**

Prashant @ Kapil S/o Moreshwar Chaudhari
Versus

The State of Maharashtra, through the Police Station Officer, Police
Station Padoli, Tq. & Dist. Chandrapur and another

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

Court's or Judge's Order

Ms. Ashtha Sharma Advocate h/f Shri P.R.Agrawal,
Advocate for the applicant.

Shri S.D.Sirpurkar, APP for the State / respondent no.1.

Ms. Akshaya Kshirsagar, 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 22nd August, 2022, passed by the learned Special Judge Special Court (POCSO), Chandrapur in Special (POCSO) Case No. 73 of 2017, convicting the applicant for the offence

punishable under Section 4(2) of the Protection of Children from Sexual Offences Act, 2012 read with Section 376(2)(i)(j)(n) of Indian Penal Code and sentenced to suffer rigorous imprisonment for twenty years and fine of Rs.15,000/- and in default to suffer rigorous imprisonment for six months.

3. Ms. Sharma, 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 Sirpurkar, learned Additional Public Prosecutor on behalf of respondent/State and Ms. Askaya Kshirsagar, learned counsel for the respondent no.2 opposed the present application.

5. In this case after going through the evidence of the victim, it can be seen that there was a love affair which she admits. The evidence further shows that she went with the accused to village Ekara (Buj) and she stayed at the house of Aunt of accused. Moreover, considering the other evidence brought on record and the findings recorded by the learned trial Court, 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 Special Judge Special Court (POCSO), Chandrapur in Special (POCSO) Case No. 73 of 2017 vide judgment and order dated 22nd August, 2022, is suspended till disposal of the appeal.
- iii. Bail as in the trial Court with fresh bonds.

[ANIL S. KILOR, J.]

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by
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