

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

**Criminal Application No. 1027 of 2022
in
Criminal Appeal No. of 2022**

Raja Shankar Suryawanshi

Versus

**State of Maharashtra, through its Police Station Officer, Police Station
Khaperkheda, Tah. Saoner, Dist. Nagpur 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 Abdul Subhan, Advocate for the appellant.

Ms. Shamsi Haider, APP for the respondent/State.

CORAM : ANIL S. KILOR, J.

DATED : 1st DECEMBER, 2022.

For the reasons stated in the application and on finding that the reasons are satisfactory, the criminal application is allowed. The delay of 79 days in filling an appeal, is condoned.

Office is directed to register the appeal.

Criminal Appeal No. 844 of 2022

Heard.

Admit.

Call record and proceedings.

Ms. Shamsi Haider, learned Additional Public Prosecutor waives service of notice on behalf of respondent/State.

Criminal Application (APPA) No. 1092 of 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 30th April, 2022 passed by the learned Extra Joint District Judge and Additional Sessions Judge, Nagpur in Special Case Child Prot. No. 349 of 2019, convicting the applicant and co-accused for the offence punishable under Section 354-D of Indian Penal Code and sentenced to suffer Rigorous imprisonment for three years and pay a fine of Rs.2,000/- in default to suffer rigorous imprisonment for two months. They are further convicted for the offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for five years and pay fine of Rs.10,000/- in default to suffer rigorous imprisonment of six months.

3. Shri Subhan, learned counsel for the applicant submits that the 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. He further submits that co-accused Mohd. Shahanshah Siddique has been released on bail by this Court vide order dated 26th August, 2022 in Criminal Application No. 637 of 2022, therefore, he prays that the applicant be released on bail on the ground of parity.

4. On the other hand Ms. Shamsi Haider, learned Additional Public Prosecutor on behalf of respondent/State opposes the present application.

5. I have perused the findings recorded by the learned Sessions Judge and thereupon, I am of the opinion that appellant is having arguable case and re-appreciation of the evidence is necessary in this case. 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 Extra Joint District Judge and Additional Sessions Judge, Nagpur

in Special Case Child Prot. No. 349 of 2019 vide judgment and order dated 30th April, 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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