

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

CRIMINAL APPEAL NO.806 OF 2022

SANJAY @ MAKODA HARIDAS MESARE

VS

STATE OF MAH. THR. PSO OLD CITY AKOLA TQ. AND DIST.AKOLA 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 A.R. Deshpande, Advocate for applicant
Shri N.R. Rode, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 30.11.2022.

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.1035 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 under Section 354A(I)(i) of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.20,000/-, in default to pay fine, further to suffer simple imprisonment for six months.

7. The applicant was further convicted for the offence under Section 354D(i) of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.20,000/-, in default to pay fine, further to suffer simple imprisonment for six months.

8. The applicant was further convicted for the offence under Section 509 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.20,000/-, in default to pay fine, further to suffer simple imprisonment for six months.

9. The applicant was further convicted for the offence under Section 7 punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs.20,000/-, in default to

pay fine, further to suffer simple imprisonment for six months.

10. The applicant was further convicted for the offence under Section 11(i) punishable under Section 12 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.20,000/-, in default to pay fine, further to suffer simple imprisonment for six months.

11. The learned counsel for the applicant submits that the applicant is a labourer and his financial condition is not good enough to deposit Rs.1 lakh towards fine, as directed by the trial Court.

12. I have perused the findings recorded by the learned Additional Sessions Judge, Akola 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 District & Addl. Sessions Judge, Akola, in Spl. (POCSO) Case No.95 of 2021 vide judgment and order dated 20.09.2022, is suspended, till disposal of the appeal.
- iii. Bail as in the trial Court with fresh Bonds.
- iv. The order directing to deposit Rs.1 Lakh towards fine, is hereby stayed and as an interim arrangement, the applicant shall deposit Rs.20,000/- towards fine within seven days.

[JUDGE]