

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

CRIMINAL APPLICATION (APPA) NO.1064 OF 2022 IN
CRIMINAL APPEAL NO.755 OF 2022

KAMLAKAR S/O KAMINSA MESHAM VS STATE OF MAH. THR. PSO PS MIDC 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 R.S. Akbani, Advocate for applicant
Shri S.D. Sirpurkar, APP for the State / Non-applicant

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 8 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for four years and to pay fine of Rs.5,000/-, in default to pay fine, further to suffer rigorous imprisonment for six months.
3. The applicant was convicted for the offence under Section 506 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs.2,000/-, in default to pay fine, further to suffer rigorous imprisonment for four months.

4. The applicant was convicted for the offence under Section 33(8) of the Protection of Children from Sexual Offences Act, 2012 and sentenced to pay compensation of Rs.7,000/- to the child and in default to pay, further to suffer rigorous imprisonment for one year.

5. 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 Additional Sessions Judge-12 & Spl. Judge under POCSO Act Nagpur in Spl. POCSO Case No.236 of 2019 vide judgment and order dated 23.08.2022, is suspended, till disposal of the appeal.
- iii. Bail as in the trial Court with fresh Bonds.

[JUDGE] Digitally signed by NIRANJAN
DOMAJI THAWRE
Signing Date:09.12.2022
17:10