

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

CRIMINAL APPLICATION (APPA) NO. 109/2023 IN
CRIMINAL APPEAL NO. 60/2023

TULSHIRAM S/O SHYAMRAO KAREMORE
VS
THE STATE OF MAH. THR. PSO PS KANHAN 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

Mr L.B. Khergade, Advocate h/f Mr C.r. Thakur, Advocate for the applicant/
appellant.

Mr I.J.Damle, APP for the respondent No.1.

Ms Kirti Deshpande, advocate (appointed) for the respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09/06/2023.

1. Heard.
2. Present application is filed by the applicant for suspension of sentence and release him on bail under Section 389 of the Code of Criminal Procedure.
3. The applicant/accused was prosecuted for the offence punishable under Section 376(2)(j)(n), 376(2) AB of the Indian Penal Code and Section 5(1)(m) punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012. After appreciation of the evidence, the Special Court found that the appellant has committed the offence punishable under Section 9(m) punishable under

Section 10 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for seven years.

4. Being aggrieved and dissatisfied with the judgment and order of the sentence, the present appeal is preferred on the ground that the learned trial Court had not considered the evidence on record. In a proper perspective, the appellant has every chance of success in the present appeal. However, it will take its own time for its final decision. In the meanwhile, if the sentence is executed, the appeal will become infructuous. The appellant was on bail during the trial. The appellant has made a positive statement in the application in para-11 to that effect.

5. The said application has strongly opposed by the State. The learned APP submitted that the victim girl was only eight years of age, at the time of the accident. If the appellant is released on bail, he will not be available for execution of sentence, if the appeal is decided against him.

6. Heard both the sides. Perused the judgment and as well as record. It reveals that the appellant was on bail during the trial and he has not misused his liberty when he was on bail. The record, nowhere shows that he has taken the disadvantage after releasing him on

bail. The appeal will take its own time for its final decision. In the meanwhile, if the sentence is executed, the appeal will become infructuous. Accordingly, criminal application deserves to be allowed by imposing some conditions. Therefore, I proceed to pass following order:

- a) Criminal application is allowed.
- b) The execution of the sentence is suspended till the final disposal of the appeal.
- c) The appellant is released on bail on executing P.R. bond of Rs. 25,000/- with one solvent surety of like amount.
- d) The appellant shall put his presence before the Extra Joint Additional Sessions Judge, Nagpur on 5th day of every month and the Sessions Court shall record his presence before it.
- e) The appellant shall furnish his cell phone number and address along with the address proof and names of the two nearest relatives along with their address proof.

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The appeal be placed before the Court after filing of private paper-book.