

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT NAGPUR, NAGPUR.

...

CRIMINAL APPLICATION (APPA) NO. 252/2023

Nareshkumar s/o Dayanand Shoukin

.. Applicant

versus

The State of Maharashtra

Th: Its PSO PS Bhiwapur Dist.Nagpur and another

.. Respondents

.....
Mr.R.R. Vyas, Advocate for the applicant

Mr.S.M.Ghodeswar, APP for Respondent No.1

Ms. Mohini A.Sharma, Advocate (appointed) for Respondent No.2

.....

CORAM: ANIL L. PANSARE, J.

DATED : 14th March, 2023.

PC:

The respondent No.2 victim is present and seeks legal aid.

2. Ms.Mohini A. Sharma, Advocate, who is on the panel of High Court Legal Services Sub-Committee, Nagpur is appointed to represent the Respondent No.2.

3. On 28th February 2023, the following order was passed:-

“Heard.

Admit.

Call R & P

The R & P be furnished in hard copy as well as soft copy.

Learned APP waives service on behalf of the Respondent No.1.

CRI.APPA NO. 252/2023

The applicant has filed this application under section 389 of the Code of Criminal Procedure. The applicant has been convicted by the judgment dated 16.02.2023 passed by the learned Extra Joint Additional Sessions Judge, Nagpur in Special POCSO Case No.147/2021 for the offences punishable under Sections 354A 354B of the Indian Penal Code as well as

Sections 11 and 12 of the Protection of Children from Sexual Offences Act, 2012 sentencing him to suffer RI for three years and to pay a fine of Rs.2,000/- i/d to suffer RI for two months. It is submitted that the applicant has already paid the fine amount.

The learned counsel for the applicant submits that the applicant was on bail pending trial. He further submits that after pronouncement of the judgment, the execution of sentence of the appellant has been suspended. The Appeal is filed within time. He further submits that there are no allegations that the applicant has misused the liberty while on bail. There are no criminal antecedents. The applicant possesses good case on merits.

Issue notice to the respondents, returnable on 14.03.2023. Learned APP waives service for Respondent No.1.

As an interim arrangement, the execution of the sentence imposed upon the applicant by judgment and order dated 16.02.2023 passed by learned Extra Joint Addl.Sessions Judge, Nagpur in Special POCSO Case No.147/2021 for the offences punishable under sections 354A and 354B of the IPC and Sections 11 and 12 of the POCSO Act, is hereby suspended, on the following conditions :

(i) The applicant shall furnish PR bond in the sum of Rs. 25,000/- , with one solvent surety in the like amount before the lower Court.

(ii) The applicant shall remain present before this Court at the time of final hearing of the Appeal.”

4. Though Ms. Mohini Sharma, learned Advocate (appointed) for Respondent No.2 opposed the application tooth and nail, however, she could not point out any adverse material, not to confirm the order dated 28.02.2023. As such, the interim order dated 28.02.2023 stands confirmed.

5. Registry to process the appeal for final hearing at its turn.

6. Professional fees of Ms.Mohini A. Sharma, Advocate (appointed) for non-applicant no.2 be quantified and paid as per the Rules.

7. The application is disposed of in the above terms.

[ANIL L. PANSARE, J.]

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