

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

...

CRIMINAL APPLICATION (APPA) NO. 253 /2023

IN

CRIMINAL APPEAL NO.136/2023

Mohd. Shahnawaj Mohd. Akhil Khan

..Applicant/s

versus

State of Maharashtra

Th: its PSO PS Kalamana Nagpur and another

..Respondent/s

.....
Mr. O.W.Gupta, Adv.for applicant

Mr. I.J.Damle, APP for Respondent No.1
.....

CORAM: ANIL L. PANSARE, J.

DATED : 11th April, 2023.

PC:

On 28th February,2023, following order was passed:

“ The applicant has filed this application under section 389 of the Code of Criminal Procedure. The applicant has been convicted by the judgment dated 30.01.2023 passed by the learned Special Judge, POCSO Court, Nagpur in Special Criminal (Child) Case No.422/2021 for the offence punishable under Sections 354D of the Indian Penal Code as well as Section 8 of the Protection of Children from Sexual Offences Act, 2012, sentencing him to suffer RI for two years u/s 354D of IPC and three years for the offence punishable u/s 8 of the POCSO Act. 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 30.01.2023 passed by the learned Special Judge, POCSO Court, Nagpur in Special Criminal (Child) Case No.422/2021 for the offence punishable under Sections 354D of the Indian Penal Code as well as Section 8 of the Protection of Children from Sexual Offences Act, 2012, 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.

2. Though served, the respondent no. 2 is absent. It appears that the respondent No.2 is not interested in opposing the application. Thus there is no reason why the interim order dated 28th February,2023 should not be confirmed. The interim order dated 28th February, 2023 shall stand confirmed. The applicant shall remain present before this Court at the time of final hearing of the appeal.

The application is disposed of.

Registry to process the appeal for final hearing as per the rules.

[ANIL L. PANSARE, J.]

sahare