

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

CRIMINAL APPLICATION (APPA) NO.380 OF 2023

IN
CRIMINAL APPEAL NO.227 OF 2023

Sandip s/o Ganpat Tayade

Vs.

State of Maharashtra, through Police Station Officer, P S. Chikhli, District Buldana
and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Anilkumar J. Thakkar, Counsel for the applicant.

Mr. M. J. Khan, APP for respondent No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 28/06/2023

1. The present application is under Section 389 of the Code of Criminal Procedure Code for suspension of sentence and for releasing the applicant on bail. The applicant was prosecuted for the offence punishable under Sections 354, 354-A, 504, 506 of the Indian Penal Code and Sections 7 and 8 of the Protection of Children From Sexual Offences Act.

2. The prosecution in support of the charge adduced the evidence of five witness. On appreciation of the evidence learned trial Court held that the offence under Sections 354, 354-A and 7 and 8 of the Protection of Children From Sexual Offences Act, is proved. In view of Section 42 no separate punishment is awarded for the

offence punishable under Section 7 and 8 of the Protection of Children From Sexual Offences Act. The applicant is convicted of the offence punishable under Section 354 and sentenced to suffer rigorous imprisonment for four years and to fine of Rs.500/- and for the offence punishable under Section 354-A he sentenced to suffer rigorous imprisonment for two years and fine of Rs.500/-.

3. Learned Counsel Shri Thakkar for the applicant submitted that the learned trial Court had not considered the evidence in proper perspective and erroneously convicted the present applicant. The applicant has every chance of success in the present appeal, however the appeal will take its own time for final decision and in the meanwhile, if the sentence is executed the appeal will become infructuous.

4. Learned APP Shri Khan for the State strongly opposed the application and prayed for rejection of the application.

5. Having heard both the sides. On perusal of the impugned order and the grounds raised by the appellant, the sentence deserves to be suspended. Moreover, it is to be taken into consideration that appeal will take its own time for final decision and in the meanwhile, if the sentence is executed the appeal will

become infructuous. In view of that, application is allowed.

(i) The execution of the sentence is hereby suspended till disposal of the appeal.

(ii) The applicant is released on bail on executing PR bond in the sum of Rs.15,000/- with one solvent surety in the like amount.

(iii) The applicant shall furnish his mobile/phone number, along with his address with address proof, before the trial Court.

6. The application is disposed of.

7. The Criminal Appeal be placed before the Court after preparation of the paper book.

(URMILA JOSHI-PHALKE, J.)

Sarkate