

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

CRIMINAL APPLICATION (APPA) NO. 509 OF 2023

IN

CRIMINAL APPEAL NO. 321 OF 2023

Prajawal S/o Sanjay Aate

..VS..

State of Maharashtra through PSO, PS Nandanvan, Nagpur

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

Court's or Judge's orders

Ms. Ashwini R. Manhare, Advocate for appellant/applicant.
Mr. M.J. Khan, Additional Public Prosecutor for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : JUNE 19, 2023

Present application under Section 389 of the Code of Criminal Procedure filed by the appellant is for suspension of sentence and for release him on bail.

2. By preferring this appeal, the appellant has challenged the judgment and order of sentenced passed by the Extra Joint District Judge and Additional Sessions Judge, Nagpur by which the appellant is convicted for the offence punishable under Section 12 of the Protection of Children from Sexual Offence Act, 2012 and sentenced to suffer Rigorous Imprisonment for one year and to pay fine of Rs.2,000/- in default to suffer Rigorous Imprisonment for one month. Fine amount is already paid.

3. As per the contention of the learned counsel, the Special Court has not considered the evidence on record and erroneously convicted the present appellant. The present appellant has every chance of success in the present appeal however, the appeal will take its own time for its final decision. In the meanwhile if the sentence is executed, then the appeal will become infructuous hence prayed for suspend the sentence and release the appellant on bail.

4. Said application is strongly opposed by the State.

5. Perused the application and judgment of the trial Court. Admittedly, the appeal will take its own time for its final decision, in the meanwhile if the sentence is executed, then the appeal will become infructuous. The appellant was on bail during the trial. He has not misused the liberty when he was on bail. Considering the same, the application deserves to be allowed. Hence, I proceed to pass the following order :

- (i) The Criminal Application No.509/2023 is allowed.
- (ii) The execution of the sentence is hereby suspended till final disposal of the appeal.
- (iii) The appellant – Prajwal S/o Sanjay Aate is released on bail on executing P.R. bond of Rs.15,000/- with one solvent surety in the like amount.

- (iv) The appellant shall furnish his cellphone number and address with the address proof.
6. The application is disposed of.

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The appeal be placed before the Court after preparation of the paper book.

(URMILA JOSHI-PHALKE, J.)

Kirtak