

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

CRIMINAL APPLICATION (APPA) NO.586 OF 2023

IN
CRIMINAL APPEAL NO.376 OF 2023

Manoj s/o Raghunath Godale

Vs.

State of Maharashtra, Through P.S.O. Pulgaon, Deoli, Wardha 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. M. V. Rai, Counsel for applicant.

Mr. S. M. Ghodeswar, APP for respondent No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 13/06/2023

1. The application under Section 389 of the Code of Criminal Procedure for suspension of sentence and grant of bail.

2. By preferring this appeal, the appellant has challenged the Judgment and order of sentence by which the appellant is convicted for the offence punishable under Section 8 of the Protection of Children from Sexual Offences Act and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.3000/- and in default to suffer further simple imprisonment for three months. He is further convicted for the offence punishable under Section 451 of the Indian Penal Code and sentenced to suffer rigorous

imprisonment for one year and to pay a fine of Rs.1000/- and in default to suffer further simple imprisonment for one month and also convicted for the offence punishable under Section 354 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.3000/- and in default to suffer further simple imprisonment for three months.

3. As per the contention of the appellant the learned trial Court had not considered the evidence on record and relied upon the untrustworthy evidence of the victim and convicted the present appellant. The present appellant has every chance of success. However, appeal will take its own time for final decision. In the meantime, if the sentence is executed then appeal will become infructuous.

4. The said application is opposed by the State on the ground that if the appellant is released on bail, he will not be available, if the appeal is decided against him for execution of sentence.

5. Though respondent No.2 is served, none appears for the respondent No.2. Heard both the sides. Perused the impugned Judgment. The appellant is convicted for the offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012 and under Section 451 and 354 of the Indian Penal

Code. The punishment provided is not more than ten years or the life imprisonment. The appellant was on bail during the trial and he has not misused the said liberty. Admittedly, the appeal may take its own time for its final decision. In the meanwhile, if sentence is executed then the appeal will become infructuous. Considering the same, application deserves to be allowed. Accordingly, I proceed to pass following order.

- (i) The application is allowed.
- (ii) The execution of the sentence is suspended till conclusion of the trial.
- (iii) The appellant is hereby released on bail on executing PR bond in the sum of Rs.15,000/- with one solvent surety in the like amount.
- (iv) The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

Sarkate