

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

CRIMINAL APPLICATION (APPA) NO. 631 OF 2023 IN
CRIMINAL APPEAL NO.399 OF 2023

Nikhil alias Sanjay S/o Suresh Thakre Vs. State of Maharashtra and another

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

Court's or Judge's orders.

Shri V.R. Borkar, Advocate for appellant.
Shri A.M. Kadukar, APP for respondent no.1/State.
Shri A. Gedam, Advocate for respondent no.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : AUGUST 09, 2023.

The appellant has filed the application for suspension of sentence and for releasing the appellant on bail.

2. The appellant was prosecuted for the offence punishable under Sections 354, 354A, 342 and 506B of the Indian Penal Code. After appreciating the evidence, the learned trial Court held the appellant guilty of the offence punishable under Section 354 and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.1000/- and in default, he shall further suffer rigorous imprisonment for one month. The appellant further convicted of the offence punishable under Section 323 and 506 of the IPC as well as under Section 7 of the Protection of Children from Sexual Offences Act and sentenced to suffer rigorous imprisonment for four years and to pay fine of Rs.1000/- and in default to suffer further rigorous imprisonment for on month.

3. Learned counsel for the appellant submitted that the fine amount is already paid. He further submitted that the learned trial Court has not appreciated the evidence in proper perspective. The appeal will take its own time for final decision, in the meantime, if the sentence is executed then the purpose of filing the appeal would frustrate and prays for suspension of sentence.

4. The said application is strongly opposed by learned APP for the State as well as learned counsel for the respondent no.2 on the ground that the learned trial Court has rightly appreciated the evidence and convicted the appeal and no grounds are made out for suspension of sentence.

5. Having heard both the sides and on perusal of the record, it reveals that the appellant has made the grounds to show that he has fair chance of success in the present appeal. However, the appeal will take its own time for its final decision, in the meantime, if the sentence is executed the purpose of preferring the appeal would frustrate. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass the following order:

- i. The criminal application is allowed.
- ii. The execution of sentence awarded by the Special Judge, Gondia in Special Child Case No.80/2018 dated 03.05.2023 is hereby suspended pending appeal.

iii. The appellant be released on bail furnishing PR bond in the sum of ₹25,000/- with one surety of like amount.

iv. The appellant shall furnish his cellphone number and his address with address proof.

The application is disposed of.

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6. Appeal be placed before the Court for final hearing after preparation of paper book.

JUDGE

Wagh

Signature Not Verified

Digitally Signed By: SURESH RAOSAHEB
WAGH
Personal Assistant to Hon'ble
Judge, High Court of Bombay, Nagpur
Bench, Nagpur.
Signing Date: 11.08.2023