

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

CRIMINAL APPLICATION (APPA) NO. 614/2023
IN
CRIMINAL APPEAL NO. 393/2023

PRAKASH S/O. HARIJI PRADHAN
VS
THE STATE OF MAH. THR. PSO, PS, NAGBHID TAH. NAGBHID,
DIST. CHANDRAPUR AND ANOTHER

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Ms F.N. Haidari, Advocate for the applicant/appellant
Mr A.M.Kadukar, APP for the respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 14/06/2023.

1. Heard.
2. The present application is filed under Section 389 of the Code of Criminal Procedure for suspension of sentence and for grant of bail.
3. The applicant was prosecuted for the offence punishable under Sections 451, 354-B of the Indian Penal Code and Section 8 of the Protection of Children From Sexual Offences Act, 2012. After the trial, the Sessions Court Chandrapur held the present applicant guilty and sentenced him to undergo R.I. for three years and shall pay a fine of Rs. 3000/- of the offence punishable under Section 354-B.

4. It is submitted by the learned counsel for the applicant that the applicant was on bail during the trial and he has not misused his liberty during the trial. The appeal will take its own time for its final decision. The learned Sessions Court has not appreciated the evidence in a proper perspective. The applicant is every chance of success in the present appeal, if the sentence is executed, then appeal become infructuous. Hence, he be released on bail by suspending the execution of the sentence.

5. The said application is strongly opposed by the State on the ground that if the applicant is released on bail then he will not be available for trial. The victim is yet to be served.

6. Issue notice to the respondent No.2. Notice be served through Nagbhid Police Station, District Chandrapur.

7. Learned APP waives service of notice on behalf of respondent/State.

8. Having heard both the sides. On perusal of the judgment of the learned trial Court, it is apparent that the appellant was on bail and he has not misused the liberty. The punishment awarded is not more than seven years. He is convicted and sentenced to suffer three years and fine of Rs. 3000/-. The fine amount is

already deposited. Considering the same, the execution of the sentence deserves to be suspended. Accordingly, I proceed to pass following order:

- a) Criminal Application is allowed.
- b) The applicant/accused is released on bail on executing PR Bond of Rs. 15,000/- with one solvent surety of like amount.
- c) The execution of the sentence is hereby suspended till disposal of the appeal.

Criminal Appeal No. 393/2023

- 1. Heard.
- 2. **Admit.**
- 3. Call for record and proceedings.
- 4. Appeal be placed before the Court after preparation of the paper-book.

JUDGE