

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

CRIMINAL APPLICATION (APPA) NO. 616/2023
IN
CRIMINAL APPEAL NO. 85/2023

Sachin s/o Sudhakar @ Jaywant Bagmare
V/s
State of Maharashtra and another.

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

Court's or Judge's Order

Mr. D.K.Hazare, counsel for applicant.

Mr. A.M.Kadukar, APP for non-applicant No.1/State.

Ms Kirti Deshpande, counsel (appointed) for the non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 13/07/2023.

1. Heard.
2. The present application is filed under Section 389 of the Code of Criminal Procedure, 1973 for suspension of sentence and for releasing the present applicant on bail.
3. The applicant was prosecuted for the offence punishable under Sections 363, 376(1), 376AB of the Indian Penal Code and Sections 4,8, 10 of the Protection of Children from Sexual Offences Act, 2012. After appreciation of the evidence the learned Trial Court held that the appellant is guilty for the offence punishable under Section 10 read with Section 8 of POCSO Act and sentenced to suffer rigorous

imprisonment for five years and shall pay fine of Rs.3,000/-. The fine amount is already deposited. It is contended by the learned counsel for the applicant has already undergone the substantive sentence is more than two and half years.

4. As per the contention of the present applicant that the appeal will take its own time for its final decision. The learned trial Court has not appreciated the evidence and erroneously convicted the present appellant if the entire sentence is undergone by the present appellant, no purpose will be served by preferring this appeal.

5. The said application is opposed by the State on the ground that learned trial Court has rightly appreciated the evidence and convicted the present appellant. There is no ground to suspend the sentence.

6. Learned counsel for respondent No.2 reiterated the same contention.

7. Heard both sides. Perused the impugned judgment. Learned counsel for the appellant has submitted that there are arguable points and the appellant has every chance of success in the present appeal. He has pointed out from the judgment and also raised the ground, as the appellant has undergone nearly half of the sentence and appeal will not be

decided in the near future. Considering the same, criminal application deserves to be allowed. Accordingly, I pass the following order:

- a) Criminal Application is allowed.
- b) The execution of the sentence is suspended till final disposal of the appeal.
- c) The appellant is released on bail on executing P.R. Bond of Rs. 25,000/- with one solvent surety of like amount.
- d) The appellant shall furnish his cell phone numbers and address along with address proof before the learned Trial Court.

Criminal application is disposed of.

JUDGE