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18.appa.1215.2023

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

CRIMINAL APPLICATION (APPA) NO.1215 OF 2023

IN
CRIMINAL APPEAL NO.752 OF 2023

Sunil s/o Tarasingh Uike

Vs.

State of Maharashtra, Through Police Station Officer, P. S. Sitaburdi, District Nagpur
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. Akash Tiwari, Advocate for appellant/applicant.

Mr. N. R. Rode, APP for respondent No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 29/11/2023

1. By this application, the appellant has challenged the Judgment and Order of sentence passed in Special Criminal Case No.212/2019, by which the appellant is convicted for the offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.2000/-, in default, to suffer further simple imprisonment for one month.

2. The learned counsel for the appellant submitted that the appeal will take its own time for final decision. In the meanwhile, if sentence is executed the appeal will become infructuous. He also pointed out that he has arguable points in the appeal which are not considered by the trial Court, therefore, he has every

chance of success in the present appeal and prays for suspension of the sentence.

3. Learned APP waives notice for the State.

4. Issue notice to the respondent No.2 – victim.

5. Learned APP Mr. Rode, for the State strongly objected the application on the ground that the appellant has not made out the case for suspension of sentence. Learned trial Court has rightly considered the evidence and convicted the appellant.

6. Having heard both the sides. Perused the impugned Judgment. Considering the submissions made by the learned Counsel for the appellant and considering the fact that the appeal will take its own time for final decision. In the meanwhile, if sentence is executed the appeal will become infructuous. The execution of sentence deserves to be suspended. In view of that, application is allowed. Accordingly, I proceed to pass following order.

ORDER

(i) The appellant **Sunil s/o Tarasingh Uike** be released on bail on executing PR bond in the sum of Rs.20,000/- with one solvent surety in the like amount.

(ii) The execution of the sentence is suspended till disposal of the appeal.

7. The application is disposed of.

CRIMINAL APPEAL NO.752 OF 2023

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

(URMILA JOSHI-PHALKE, J.)