



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

CRIMINAL APPLICATION (APPA) NO.31 OF 2024
IN
CRIMINAL APPEAL NO.114 OF 2022

(Mahadeo Dagadu Jondhale Vs. State of Maharashtra thr. the Officer-in-Charge,
Police Station, Balapur, Dist. Akola and another)

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

Court's or Judge's orders.

Ms. F. N. Haidari, Advocate for Applicant.
Mr. A. M. Kadukar, APP for Non-Applicant No.1/State.

CORAM: M. W. CHANDWANI, J.

DATE: 22nd JANUARY, 2024.

The applicant has preferred the appeal challenging the judgment and order of conviction dated 20.01.2022 passed by the Special Judge in Special (POCSO) Case No.14/2018. Along with the appeal the applicant has also filed application for suspension of substantive sentence during pendency of the appeal.

2. The applicant has been convicted for offence punishable under Section 10 of the Protection of Children from Sexual Offences Act, 2012 (for short POCSO Act) and he has been sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs.10,000/-. The applicant was also convicted for offence punishable under Section 12 of the POCSO Act and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.10,000/-

likewise the applicant is further convicted for offence punishable under Section 354 (B) of the IPC and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.10,000/-.

3. It is contended by the learned counsel for the applicant that the applicant is old aged person who has completed age of 83 years. Though the offence of penetrative sexual assault has been alleged, the said charge failed and the applicant has been convicted for aggravated sexual assault and has been sentenced for fixed term and he has already undergone half of the punishment. The appeal will take considerable time hence, he seeks suspension of the sentence.

4. The learned APP opposed the application and suspension of the sentence. Perusal of judgment reveal that the applicant has been convicted for aggravated sexual assault on child.

5. The applicant has been convicted for fixed term of five years. The applicant was on bail during the trial. It is not in dispute that the applicant is old aged person of 83 years, sentence is for fixed term of five years out of which he has already undergone more than half of the sentence. The appeal may not be heard in near future. In case of succeeding in the appeal, the position will not be reversible.

6. Considering the age and the fact that more than

half of the sentence he has already undergone, a case is made out for suspension of sentence, pending the appeal and the substantive sentence passed in Special (POCSO) Case No.14/2018 shall remain suspended.

7. The applicant shall pay fine amount, if not paid, within four weeks.

8. The applicant shall be released on bail on furnishing P.R. bond in the sum of Rs.15,000/- with one solvent surety in the like amount.

9. The applicant shall appear before this Court on the date of final hearing of appeal.

10. The application is allowed and disposed of.

JUDGE

NSN