



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

CRIMINAL APPEAL NO.38 OF 2024

(Rajesh s/o Suresh Chinchole Vs. State of Maharashtra thr. PSO Ps Pulgaon, Wardha)

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

Court's or Judge's orders.

Mr. M. N. Ali, Advocate for Appellant.

CORAM: M. W. CHANDWANI, J.

DATE: 24th JANUARY, 2024.

Heard.

2. **Admit.**
3. Issue notice to the respondent, returnable within two weeks.
4. Mr. N. B. Jawade, learned A.P.P. waives service of notice on behalf of the respondent/State.
5. Call for record and proceedings.

CRIMINAL APPLICATION (APPA) NO.82/2024:

Heard.

2. By this application, the applicant seeks suspension of the substantive sentence pending the appeal.
3. The Special Judge, POCSO Court, Wardha vide judgment and order dated 29.12.2023 in Special Case No.11/2021 convicted the applicant for the offences

punishable under Sections 452, 354, 324 and 506 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act, 2012 (for short POCSO Act) and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.3000/- and in default to suffer further simple imprisonment for three months.

4. It is submitted on behalf of the learned counsel for the applicant that the applicant has good chance to succeed in the appeal. The applicant was on bail during trial. The punishment is for a fixed term of three years and Court has directed the substantive sentences shall run concurrently.

5. The learned APP submits that after evidence the applicant has been convicted and sentenced to suffer the aforesaid punishment. Hence, sought rejection of the application.

6. The punishment imposed by the trial court is relatively short and for a fixed period of three years. Considering the pendency, the appeal may not be heard in near future. The learned counsel for the applicant makes a statement that the applicant has already paid the fine amount. Considering the quantum of punishment and material available on record, a case is made out for suspension of sentence. Hence, the following order:

[i] The application is allowed.

[ii] During the pendency of the appeal, the substantive sentence passed by the learned

Special Judge, POCSO Court, Wardha vide judgment and order dated 29.12.2023 in Special Case No.11/2021 shall remain suspended.

[iii] The applicant shall be released on bail on furnishing P.R. bond in the sum of Rs.50,000/- with one solvent surety in the like amount.

[iv] The applicant shall appear before this Court at the time of final hearing of the appeal.

The Registry is directed to process the appeal as per rule.

JUDGE

NSN