



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

CRIMINAL APPLICATION NO. 529 OF 2024

IN

CRIMINAL APPEAL NO. 300 OF 2024

Mohd. Chand Mohd. Islam Kureshi

Vs.

State of Maharashtra

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

Court's or Judge's Order

Shri Mahesh V. Rai, Advocate for appellant.
Shri S. V. Narale, Advocate for respondent.

CORAM :- URMILA JOSHI-PHALKE, J.

DATED :- 24.05.2024

Heard.

2. By preferring this application, the appellant is seeking suspension of substantive sentence passed by the learned Extra Jt. Additional Sessions Judge (POCSO), Court, Wardha vide judgment and order dated 17.05.2024 in Spl. (Ch.Act) Case No. 122/2021 and prayed for releasing him on bail.

3. The appellant was prosecuted for the offence punishable under Section 363 of the Indian Penal Code (IPC) and under Section 12 of the Protection Of Children from Sexual Offences (POCSO) Act. The appellant was sentenced to suffer rigorous imprisonment for two years and to pay fine of ₹5,000/-, in default to suffer simple imprisonment for three months for the offence

punishable under Section 12 of the POCSO Act. He was further convicted for the offence punishable under Section 363 of the IPC and sentenced to suffer rigorous imprisonment for three years and to pay fine of ₹6,000/-, in default to suffer simple imprisonment for six months. It is submitted that the fine had been paid by the appellant.

4. The learned counsel for the appellant submitted that the appeal will take its own time for decision but, in the meanwhile, it would become infructuous. The sentence imposed on the appellant is for a limited period. In view of that, it is prayed that execution of the sentence be suspended and the appellant be released on bail.

5. The learned APP for the State strongly opposed the suspension of sentence and submitted that the appeal is devoid of merit hence, the application deserves to be rejected.

6. Having hearing the learned counsel for the appellant and the learned APP for the State and perused the impugned judgment. The learned counsel for the appellant has pointed out, from the impugned judgment, that many arguable point are raised in the present appeal. But, the appeal would take its own time to decide and in the meanwhile, it would become infructuous. Moreover, the sentence imposed is for a limited period hence, a case is made out of suspension of substantive

sentence and grant of bail. Hence, I proceed to pass the following order:-

- i) The application is allowed.
- ii) The substantive sentenced passed by the learned Extra Jt. Additional Sessions Judge (POCSO) Court, Wardha vide judgment and order dated 17.05.2024 in Spl. (Ch.Act) Case No. 122/2021 shall remain suspended till disposal of the appeal.
- iii) The applicant be released on bail on he executing a PR bond of ₹15,000/- (Rs. Fifteen Thousand) with one solvent surety in the like amount.

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7. Heard.
8. **Admit.**
9. The learned APP waives service of notice for respondent/State.
10. Call record and proceedings.
11. The appeal be placed before the Court after filing of paper-book.

(URMILA JOSHI-PHALKE, J.)