



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

CRIMINAL APPLICATION (APPA) NO. 543 OF 2024
IN
CRIMINAL APPEAL NO. 306/2024.

Bhumeshwar s/o Rikiram Mankar 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. N.R. Tekade, counsel for the applicant/appellant.
Ms. Soniya Thakur, APP for the non-applicant.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 11/06/2024.

1. Heard.
2. By preferring this application, the applicant / appellant is seeking suspension of sentence and releasing him on bail.
3. Learned counsel for the applicant submitted that applicant was prosecuted of the offence punishable under Section 354 of the Indian Penal Code, 1860, Sections 8 and 12 of the Protection of Children from Sexual Offences Act, (POCSO), 2012 (for short 'the POCSO Act) and Section 3(1) (xi) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act (for short 'the Atrocities Act'). The learned trial court held the present applicant guilty of the offence punishable under Section 8 of the POCSO Act and sentenced to suffer rigorous imprisonment of three years and fine of Rs. 5000/-, in default, to suffer further S.I. for two months. He

is also convicted under the provisions of Atrocities Act and sentenced to suffer R.I. for six months and to pay fine of Rs. 5000/-, in default, to suffer further S.I. for two months.

4. Learned counsel for the applicant submitted that learned trial Court has not appreciated the evidence in proper perspective, and also pointed out from the impugned judgment that, he has many arguable points in the present appeal. Moreover, he submitted that the punishment imposed is of limited period, but the appeal would take its own time for its final decision. In the meanwhile, if sentence is executed the appeal will become infructuous.

5. Learned APP strongly opposed the said application on the ground that appeal is devoid of merits and therefore, the application deserves to be rejected.

6. Having heard learned counsel for the applicant and learned APP for the State, perused the impugned judgment. From which, it reveals that the applicant has many arguable points in the present appeal. Moreover, punishment imposed is of a limited period, if the sentence is executed, then purpose of preferring the appeal would become infructuous. In view of that, application deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The application is allowed and disposed of.

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

- (iii) The applicant be released on bail on executing PR. Bond in the sum of Rs.15,000/- with one solvent surety in the like amount.

CRIMINAL APPEAL NO.306 OF 2024

1. Heard.
2. **ADMIT.**
3. Call for R. & P.
4. Learned Additional Public Prosecutor waives service of notice on behalf of respondent/State.
5. Place the appeal before the Court after preparation of the paper book.

[URMILA JOSHI-PHALKE, J.]