



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

CRIMINAL APPLICATION (APPA) NO.93 OF 2024 IN
CRIMINAL APPEAL NO.45 OF 2024

Sanket Nagsen Shirsat Vs. State of Maharashtra and another

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

Court's or Judge's orders.

Shri D.S. Patil, Advocate for appellant.
Shri C.A. Lokhande, APP for respondent no.1/State.

CORAM : M.W. CHANDWANI, J.

DATE : MARCH 22, 2024.

Heard.

2. The application seeks suspension of substantive sentence imposed by the learned Additional Sessions Judge, Akola in Special (POCSO) Case No.124/2017 by the impugned judgment and order dated 23.12.2021. The appellant has been convicted for the offence punishable under Sections 8 and 12 of the Protection of Children from Sexual Offences Act alongwith Sections 354(A)(1) and 354(D) of the Indian Penal Code and sentenced to suffer rigorous imprisonment for five years and to pay fine of Rs.5,000/-. The appellant has been convicted for the offence punishable under section 452 of the IPC and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.500/-. The appellant has also been convicted for the offence punishable under section 504 of the IPC and sentenced to suffer rigorous imprisonment for six month and to pay fine of Rs.300/-. The appellant has also been convicted for the offence punishable under section 506 of the

IPC and sentenced to suffer rigorous imprisonment for six year and to pay fine of Rs.200/-.

3. Heard learned counsel for the appellant as well as learned APP for the respondent/State.

4. It is submitted on behalf of the learned counsel for the appellant that inspite of eye witnesses of alleged incident they not been examined by the prosecution before the trial Court and solely relied on the version of the victim girl and her mother. The defence of the appellant was that he had given a mobile phone to the victim and when he sought mobile back, he has falsely implicated in this case.

5. The application is opposed by the State on the ground that there is sufficient evidence to justify the conviction.

6. It appears that there were three witnesses present on the spot at the time of alleged incident but, the prosecution did not examine any of them. An arguable case is made out on merit, which requires scrutiny of the evidence of the prosecution witnesses. The sentence is for fixed term of five years. He has already undergone sentence for two years. The appeal will not be heard in near future. A case is made out for suspension of substantive sentence. Hence, the following order:

ORDER

i. The application is allowed.

- ii. The appellant -Sanket Nagsen Shirsat be released on bail on he executing PR bond in the sum of Rs.25,000/- with solvent surety in the like amount.
- iii. The appellant shall remain present before this Court at the time of final hearing of appeal.
- iv. The appellant shall deposit fine amount, if not deposited.

With this, the application stands disposed of.

- 7. List the appeal for final hearing, as per its turn.

JUDGE

Wagh