



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

**CRIMINAL APPLICATION NO.787 OF 2022**

**IN**

**CRIMINAL APPEAL NO.611 OF 2022**

(Prakash s/o Bhiva Dahare Vs. State of Maharashtra and anr.)

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

Court's or Judge's Order

-----  
Mr. J.K. Matala, Advocate for the appellant.  
Mr. A. Ghogane, APP for the State.

**CORAM:- URMILA JOSHI-PHALKE, J.**

**DATED :- AUGUST 9, 2024.**

By this application, the appellant is seeking suspension of sentence and releasing him on bail.

2. The appellant was the original accused in Special Case No.04/2019 for the offence punishable under Section 354 of the Indian Penal Code and Section 3(1)(w)(i), 3(2)(va) of the Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 and under Section 8 of the Protection of Children from Sexual Offences Act, 2012. The appellant is acquitted of the offence punishable under Section 3(1)(w)(i), 3(2)(va) of the POCSO Act. He is convicted of the offence punishable under Section 354(A)(1) and under Section 8 of the POCSO Act and sentenced to suffer rigorous imprisonment of three years and to pay fine of Rs.5000/- in default to suffer simple imprisonment for three months.

3. Learned Counsel for the appellant submitted that the learned trial Court has not appreciated the

evidence in proper perspective. He pointed out from the impugned judgement that he has many arguable points in the present appeal. Moreover, the punishment imposed is of a limited period, if sentence is executed then the appeal will become infructuous. In view of that, he prays for suspension of sentence and releasing the appellant on bail.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that the appeal itself is devoid of merits and liable to be dismissed.

5. I have heard learned Counsel for both the parties and perused the impugned judgement from which the learned Counsel for the appellant has pointed out that he has many arguable points in the present appeal and there are every chance of success. However, the appeal would take its own time for its final decision, moreover the punishment imposed is for a limited period. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order :

(i) The application is allowed.

(ii) The execution of the sentence vide order dated 19/08/2022 passed by the Additional Sessions Judge, (Special Judge, POCSO), Bhandara in Special Case No.04/2019 is hereby suspended till final disposal of the appeal.

(iii) The appellant - Prakash s/o Bhiva Dahare be released on bail on executing P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty five thousand) with one surety, in the like amount.

6. The application stands disposed of.

**CRIMINAL APPEAL NO.611 OF 2022**

Heard.

2. In view of the decision of this Court in Criminal Appeal No.8953/2023 decided on 10/11/2023, learned Counsel for the appellant seeks permission to delete the name of respondent No.2.

3. Leave is granted to the appellant to delete the name of respondent No.2.

4. **ADMIT.**

5. Learned APP waives notice for the State.

6. Call for R. & P.

7. Place the appeal before the Court after preparation of the paper book.

**(URMILA JOSHI-PHALKE, J.)**