



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

CRIMINAL APPLICATION NO.788 OF 2024

IN

CRIMINAL APPEAL NO.444 OF 2024

(Suraj s/o Kishor Telrandhe 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

Mr. V.R. Mishra, Advocate for the applicant.
Ms Dhote, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 26, 2024.

By preferring the appeal, the appellant has challenged the judgment and order of conviction passed by the Extra Joint Additional Sessions Judge and Special Judge, Wardha in Special Case No.48/2019 dated 15/06/2024 whereby the appellant has held guilty of the offence punishable under Section 8 of the POCSO Act and sentenced to suffer rigorous imprisonment for 3 years and to pay fine of Rs.3000/- in default to suffer Simple Imprisonment for 3 months.

2. The appellant is further convicted of the offence punishable under Section 341 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for 1 month and to pay fine of Rs.500/- in default to suffer further simple imprisonment for 8 days.

3. The appellant further convicted of the offence punishable under Section 354 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for 3 years

and to pay fine of Rs.3000/- in default to suffer further simple imprisonment for 2 months as well as of the offence punishable under Section 323 of the IPC.

4. Learned Counsel for the appellant submitted from the impugned judgment that the appellant is convicted under Section 8 of the POCSO Act as well as under Section 354 of the IPC and not considered Section 42 of the POCSO Act wherein the alternate punishment is provided. He also pointed out from the impugned judgment that he has many arguable points in the present appeal but the appeal would take its own time for its final disposal. In the meanwhile, if sentence is executed the purpose of preferring the appeal would frustrate.

5. In view of that, he prays for the suspension of sentence and releasing the appellant on bail.

6. Learned APP strongly opposed the application and submitted that the appeal itself is devoid of merits and liable to be dismissed. Hence, the application deserves to be rejected.

7. I have heard learned Counsel for both the parties. Admittedly, the punishment imposed is of a limited period. Moreover, the trial Court has not considered the Section 42 of the POCSO Act wherein the alternate punishment is provided. The appeal would take its own time for its final disposal. In the meantime, if sentence is executed then the purpose of preferring the appeal would frustrate. In view of that, the application

deserves to be allowed. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) The execution of the sentence vide order dated 15/06/2024 passed by the Extra Joint Additional Sessions Judge and Special Judge, Wardha in Special Case No.48/2019 is hereby suspended till final disposal of the appeal.

(iii) The appellant - Suraj s/o Kishor Telrandhe be released on bail on executing PR. Bond in the sum of Rs.25,000/- (Rs. Twenty five thousand) with one surety, in the like amount.

8. The application stands disposed of.

CRIMINAL APPEAL NO.444 OF 2024

Heard.

2. **ADMIT.**

3. Learned APP waives notice for the State.

4. Call for R. & P

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

(URMILA JOSHI-PHALKE, J.)