



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

CRIMINAL APPLICATION (APPA) NO.790 OF 2024
IN
CRIMINAL APPEAL NO.447 OF 2024

Dhanraj s/o Sukhdeo Bawane

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Ajni,
Nagpur, District Nagpur

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

Court's or Judge's orders

Mr. Atharva Sunil Manohar, Counsel for appellant.
Mrs. M. A. Barabde, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 23/08/2024

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

2. The appellant was prosecuted for the offence punishable under Sections 354, 354-A and 447 of the Indian Penal Code and under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. Learned Counsel for the appellant submitted that the learned trial Court has not considered the material witnesses withheld by the prosecution and only on the basis of the evidence of the victim, the appellant is convicted. He has pointed out the impugned judgment that he has many

arguable points in the present appeal. Moreover, the punishment imposed is of a limited period. If the sentence is executed, then the entire purpose of preferring the appeal would frustrate.

4. Learned APP strongly opposed the said application and submitted that appeal itself is of devoid of merits, in view of that the application deserves to be rejected.

5. After hearing both sides. On perusal of the impugned judgment from which learned Counsel for the appellant pointed out that he has many arguable points with the present appeal. From the impugned judgment it reveals that the material witnesses are not examined by the prosecution. However, at this stage, appreciation of the evidence is not required. Considering that limited period punishment is imposed and if the sentence is executed the entire purpose of preferring the appeal which is the right of the appellant would frustrate. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

(i) Executing of sentence imposed in Special POCSO Case No.268/2023 is suspended till disposal of the appeal.

(ii) The appellant **Dhanraj s/o Sukhdeo Bawane** shall be released on bail on executing PR

Bond of Rs.25,000/- with one solvent surety of the like amount.

6. The application is disposed of.

CRIMINAL APPEAL NO.447 OF 2024

1. Heard.
2. **Admit.**
3. Learned APP waives notice for the State.
4. Call for record and proceedings.
5. Appeal be listed before this Court after preparation of the paper book.

(URMILA JOSHI-PHALKE, J.)