



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

CRIMINAL APPLICATION (APPA) NO. 1074 OF 2024

IN

CRIMINAL APPEAL NO.624 OF 2024

Bhagaji Laxman Narwade (in Jail)

Vs.

State of Maharashtra, through PSO, PS Dhad Dist. Buldhana and another

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

Mr Atharva S. Manohar, Advocate for the appellant.

Mr A.M. Joshi, APP for the State.

Mr. N.K. Bhangde, Advocate (appointed) for respondent No.2.

CORAM : G.A. SANAP, J.

DATE : 27.11.2024

Heard learned Advocate for the appellant and
learned APP for the respondent/State.

2. This is an application filed by the
appellant/accused for suspension of sentence and grant of
bail.

3. The appellant, on conviction for the offences
punishable under Section 10 of the Protection of Children
From Sexual Offences Act, 2012 (for short, 'the POCSO
Act), has been sentenced to suffer rigorous imprisonment
for five years and to pay a fine of Rs.5,000/-, in default to
suffer simple imprisonment for four months.

4. It is submitted that the appellant is 81 years
old. There was inordinate delay in lodging the report. The

appellant is suffering from old age problems. He has a good case on merits. It is further submitted that considering the term of sentence, the prayer made by the appellant for suspension of sentence may be granted.

5. Learned APP for the State submits that the evidence adduced by the prosecution is cogent and concrete. The victim girl, on the date of the incident was nine years old. It is submitted that considering the serious nature of crime committed by the appellant, who is 81 years old, he does not deserve any sympathy at this stage.

6. Learned Advocate appointed to represent respondent No.2 adopted the submissions advanced by learned APP for the State.

7. I have perused the record and proceedings.

8. Undisputedly, the appellant is 81 years old. The term sentence awarded is of five years rigorous imprisonment. The appellant has been in jail from the date of the judgment and order. As far as the merits of the appeal are concerned, the same cannot be gone into at this stage. The appellant, during the trial, was on bail. It is pointed out that there was no grievance of misuse of liberty granted to the appellant during the pendency of trial.

9. On going through the available record, in my

view, considering the age of the appellant and the term of the sentence, it would be just and proper to suspend the sentence. The appeal would take its own time for final adjudication. If the appellant undergoes the substantive sentence before appeal is taken up for final hearing, then it would cause prejudice to the appellant. In view of this, the application deserves to be granted.

8. Accordingly, the application is allowed.

i) The sentence awarded by the learned Judge Special Court, Buldhana, in Spl.(Pocso) C.No.32/2019 vide judgment and order dated 09.10.2024 shall remain suspended during pendency of the appeal.

ii) Appellant-**Bhagaji Laxman Narwade** be released on bail on his furnishing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand Only) and one surety in the like amount .

iii) The surety be submitted before the Trial Court.

9. Criminal Application stands disposed of.

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1. Office to prepare the paper book expeditiously.

(G. A. SANAP, J.)