



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

CRIMINAL APPLICATION NO.1175 OF 2023

IN

CRIMINAL APPEAL NO.729 OF 2023

(Tushar s/o Lankesh Pende 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

Advocate R.R. Gajbhiye for the appellant.
Mr. N. Joshi, APP for the State.
Ms D.P. Shahare, Advocate (appointed) for R. No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- JANUARY 03, 2024.

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

2. The appellant was prosecuted for the offence punishable under Sections 354-A(1)(i) and 506 of the Indian Penal Code and Sections 7, 8, 11 and 12 of the Protection of Children from Sexual Offences (POCSO) Act, 2012.

3. Learned trial Court after appreciating the evidence, convicted the appellant of the offence punishable under Section 8 of the POCSO Act and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.1500/- and in default to suffer Simple imprisonment for 6 months.

4. Learned Counsel for the appellant submitted that the learned trial Court has not considered the

material evidence on record and the admissions given by the victim during the cross-examination and erroneously convicted the appellant. The appellant has every chance of success in the present appeal however, it will take its own time for its final decision. In the meanwhile, if sentence is executed, the purpose of preferring the appeal will frustrate.

5. Said application is strongly opposed by the State on the ground that the appellant has not made out the case to suspend the sentence, the appeal is meritless and application deserves to be dismissed.

6. Learned Counsel for respondent No.2 also opposed the application on the ground that the appeal is meritless and deserves to be dismissed.

7. I have heard learned Counsel for the appellant, learned Counsel for respondent No.2 as well as learned Additional Public Prosecutor for the State. Perused the impugned judgment and the copies of the deposition. From the impugned judgment and the copies of the deposition learned Counsel for the appellant pointed out that she has arguable points in the present appeal but it will take its own time for its final decision.

8. In view of that the application for suspension of sentence deserves to be allowed. Accordingly, I proceed to pass following order :

(i) The application is allowed.

(ii) The execution of the sentence is hereby suspended till final disposal of the appeal.

(iii) The applicant 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.

(iv) The applicant shall furnish his Cell-phone number and address along with address proof before the trial Court.

9. The application stands disposed of.

10. The fees of the appointed Counsel be quantified as per rules.

CRIMINAL APPEAL NO.729 OF 2023

Heard.

2. **ADMIT.**

3. Call for R. & P.

4. Issue notice to respondents.

5. Learned APP waives notice for the State.

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

(URMILA JOSHI-PHALKE, J.)