



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

CRIMINAL APPLICATION (APPA) NO.178 OF 2025
IN
CRIMINAL APPEAL NO.251 OF 2024

(Akash s/o Gajanan Tale Vs. The State of Maharashtra thr. PSO PS Mankapur, Dist.
Nagpur)

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

Court's or Judge's orders.

Mr. C. R. Thakur with Mr. L. B. Khargade, Advocate for Appellant.
Mr. V. A. Thakare, APP for Respondent/State.

CORAM: URMILA JOSHI PHALKE, J.

DATE: 24th MARCH, 2025.

1. Heard.
2. By this application, the appellant is seeking suspension of sentence and releasing him on bail.
3. The appellant is convicted in Special POCSO Case No.249/2019 by Extra Joint District Judge and Additional Sessions Judge, Nagpur and held guilty of the offence punishable under Section 4 of Protection of Children from Sexual Offences Act and sentenced to suffer rigorous imprisonment for 10 years and to pay fine of Rs.3000/- in default to suffer rigorous imprisonment for six months.
4. Heard learned counsel for the appellant who submitted that from the evidence of the victim itself it revealed that the victim was aged about 17 years at the relevant time and there was love affair between her and the

appellant. Out of love affair the physical relationship was developed between them and subsequently the appellant denied to perform marriage with her, and therefore, report came to be lodged. He submitted that considering the evidence of victim itself clear that out of love affair the physical relationship was developed. The learned trial court has not considered the same and awarded the punishment of 10 years. The appellant has every chances of success in the present appeal. The appeal would take its own time for its disposal. In the meantime, if the sentence is executed, the appeal would become infructuous.

5. The learned APP strongly opposed for the same and submitted that the victim was 17 years of age and her consent is not required on the promise of marriage that is under the misconception of bar. The appellant subjected her for sexual assault. The evidence of the victim corroborated by the medical evidence shows the involvement of the present appellant. Thus, the appeal is devoid of merit and liable to be dismissed. In view of that, the application deserves to be rejected.

6. On hearing both the sides and on perusal of the evidence inspection of the victim from which it reveals that they got acquaintance with each other from the social site and love affair was developed between them and out of love affair physical relationship was developed between them. As far as the nature of the evidence is concerned which is not re-appreciated, at this stage, while considering the circumstances under which the alleged incident has taken

place and the appeal would take its own time for its final disposal, the application for suspension of sentence deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- i] Criminal Application (APPA) No.178/2025 is allowed.
- ii] The execution of the sentence passed in Special POSCO Case No.249/2019 is hereby suspended till disposal of the appeal.
- iii] The appellant shall be released on bail on executing P.R. bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

CRIMINAL APPEAL NO.251 OF 2024:

1. The appeal is already admitted. The record and proceedings are already received.
2. Paper book is also ready. Appeal be fixed for final disposal as per its own turn.

(URMILA JOSHI-PHALKE, J.)