



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

CRIMINAL APPLICATION NO.222 OF 2025

IN

CRIMINAL APPEAL NO.123 OF 2025

(Avinash Bhagwan Wani 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. A. Zade, Advocate h/f Mr. A.V. Chirde, Advocate for the appellant.
Mrs. H.N. Prabhu, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- FEBRUARY 28, 2025.

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

2. Learned Counsel for the appellant submitted that the appellant is prosecuted of the offence punishable under Sections 363 and 354 of IPC and under Section 3(1)(w)(1)(2), 3(2)(5-A) of the Scheduled Caste and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012.

3. After hearing and on appreciation of the evidence, the learned Special Court held the appellant guilty 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.1000/- in default rigorous imprisonment for 15 days. He is further convicted

of the offence punishable under Section 12 of the POCSO Act and sentenced to suffer rigorous imprisonment for one year and fine of Rs.1000/- in default rigorous imprisonment for 15 days. The accused is further convicted of the offence punishable under Sections 363 and 354 of the IPC. The maximum punishment imposed is of three years.

4. Learned Counsel for the appellant submitted that the punishment imposed is of a limited period. He further submitted from the impugned judgment that he has many arguable points in the present appeal. The appeal would take its own time for its final disposal. In the meantime, if sentence is executed the purpose of preferring the appeal would frustrate. In view of that, he be released on bail and the execution of sentenced be suspended.

5. Learned APP strongly opposed the application on the ground that the appeal itself is devoid of merits, and therefore, the application deserves to be rejected.

6. I have heard learned Counsel for both the parties and perused the impugned judgment and the depositions from which it reveals that the appellant has succeeded in showing that he has many arguable points in the present appeal. Moreover, the punishment imposed is also of a limited period. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass

following order :

Corrected as per
Court's order
dated 07/03/2025

(i) The application is allowed.

(ii) The execution of the sentence vide order dated 21/01/2025 passed by the Special Judge, Darwaha, District Yavatmal in Special Case No.24/2019 is hereby suspended till final disposal of the appeal.

(iii) The appellant – Avinash Bhagwan Wani be released on bail on executing PR. Bond in the sum of Rs.15,000/- (Rs. Fifteen thousand) with one surety, in the like amount.

7. The application stands disposed of.

CRIMINAL APPEAL NO.123 OF 2025

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.)