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52.appa.422.2023

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

CRIMINAL APPLICATION (APPA) NO.422 OF 2023
IN
CRIMINAL APPEAL NO.256 OF 2023

Pradeep s/o Antaram Koreti

Vs.

State of Maharashtra, through Police Station Officer, Keshori
and another

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

Court's or Judge's orders

Mr. Bhushan Sachdev, Counsel h/f Mr. S. G. Karmarkar, Counsel for the
applicant/appellant.

Ms. S. S. Dhote, APP for the respondent No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 20/01/2025

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

2. The appellant was prosecuted for the offence punishable under Sections 354-A(2), 294, 341, 504 and 509 read with Section 34 of the Indian Penal Code (for short 'the IPC') and under Section 7 read with Section 8 and Section 11 read with Section 12 of the Protection of Children from Sexual Offences Act (for short 'the POCSO Act'). After recording the evidence, the learned Special Court held the appellant guilty of the offence punishable under Section 294 read with Section 34 of the IPC and

sentenced to suffer rigorous imprisonment for three months and to pay fine of Rs.500/-, in default to undergo rigorous imprisonment for 15 days. He is further convicted for the offence punishable under Section 341 of the IPC and sentenced to undergo rigorous imprisonment for one month and pay fine of Rs.500, in default rigorous imprisonment for 7 days. He is further convicted for the offence punishable under Section 8 of the POCSO Act and sentenced to undergo rigorous imprisonment for five years and to pay fine of Rs.5000/-, in default rigorous imprisonment for 6 months and of the offence under Section 12 of the POCSO Act and sentenced to undergo rigorous imprisonment for three years and pay fine of Rs.5000/-, in default rigorous imprisonment for 3 months.

3. Learned Counsel for the appellant submitted that the appellant is behind bar approximately three years. The maximum punishment imposed is of a five years. The appeal would take its own time for its final disposal. The punishment is of a limited period. He has also pointed out from the impugned judgment that he has many arguable points in the present appeal. In view of that, he prayed for suspension of sentence and releasing him on bail.

4. Learned Counsel for the respondent strongly opposed the same on the ground that the

appeal itself is devoid of merits and therefore, the application deserves to be rejected.

5. After hearing both sides and on perusal of the impugned judgment, it reveals that the appellant has many arguable points in the present appeal. Moreover, the punishment imposed is of a limited period and the appellant has already undergone approximately three years. Considering the fact that the appeal would take its own time for its final disposal, the application of suspension of sentence deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The execution of the sentence imposed in Special (POCSO) Case No.31/2016 is hereby suspended.
- (iii) The execution of the sentence be suspended on condition of payment of fine amount by the appellant within two weeks.
- (iv) The appellant shall be released on bail on executing PR Bond of Rs.25,000/- with one solvent surety of the like amount.

The application is disposed of.

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- 1. Appeal is already admitted.

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2. Record and proceeding is already received.
3. Office to list the matter after preparation of the paper book for final disposal.

(URMILA JOSHI-PHALKE, J.)

Sarkate