



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

Criminal Application [APPA] No.893 of 2025

in

Criminal Appeal No.533 of 2025

Satish Tukaram Joge

vs.

*The State of Maharashtra, Through P.S.O., P.S. Sindi (Railway), Tahsil Seloo,
District Wardha and another*

*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

Court's or Judge's Orders

Mr. N. Lapalikar, Advocate for the Applicant/Appellant.

Mr. A.R. Chutke, A.P.P. for Non-Applciant/Respondent No.1.

Ms. Alpna Ingolikar, Advocate for Non-Applciant/Respondent No.2.

CORAM : NIVEDITA P. MEHTA, J.

DATE : 23rd DECEMBER, 2025.

Heard

2. The applicant has preferred the present appeal challenging the judgment and order dated 03/01/2024 passed by the learned Extra Joint Additional Sessions Judge (Special Court), Wardha, in Special (Ch. Act) Case No. 15 of 2017, whereby the applicant came to be convicted for the offences punishable under Sections 376(2)(n), 363 and 366 of the Indian Penal Code, read with Section 4 of the Protection of Children from Sexual Offences Act, 2012, and was sentenced to suffer rigorous imprisonment for ten years and to pay a fine of ₹12,000/-, in default, to suffer simple imprisonment for thirteen months.

3. The present application has been filed by the applicant under Section 430 of the Bharatiya Nagarik Suraksha Sanhita, 2023, seeking suspension of sentence and grant of bail pending disposal of the appeal.

4. The learned Counsel appearing for the applicant submits that the applicant was on bail throughout the course of the trial and had not misused the liberty granted to him. It is contended that the victim was approximately 17 years and 6 months old at the time of the alleged incident and was in a consensual relationship with the applicant. According to the learned Counsel, the victim voluntarily eloped with the applicant and stayed with him for about five days. It is further submitted that the victim accompanied the applicant to Shindewahi, District Chandrapur, where they stayed at the residence of the applicant's maternal uncle. The learned Counsel contends that the prosecution has failed to establish the allegations of kidnapping and sexual exploitation. Emphasis is placed on the delay of about 20 days in lodging the First Information Report. It is further submitted that the medical examination of the victim was conducted after a lapse of approximately 30 days. The learned Counsel submits that the applicant has an arguable case on merits and, considering that the appeal is not likely to be heard in the near future, the sentence imposed upon the applicant deserves to be suspended.

5. Per contra, the learned Additional Public Prosecutor opposes the application, contending that the victim was a minor and, therefore, her consent is legally immaterial, she being a child within the meaning of Section 2(d) of the Protection of Children from Sexual Offences Act, 2012. It is submitted that the prosecution has duly proved the involvement of the applicant in the commission of the offences. The learned A.P.P. submits that the learned Trial Court, upon appreciation of the evidence on record, has rightly convicted the applicant for the aforesaid offences and, therefore, no case is made out for suspension of sentence and grant of bail.

6. The learned Counsel appearing for non-applicant No.2 – the victim, adopts the submissions advanced by the learned A.P.P. for the

State.

7. Upon thoughtful consideration of the rival submissions advanced by the learned Counsel for the parties, and upon perusal of the record, it is evident that the applicant was on bail throughout the course of the trial and there is no material to indicate that he had misused the liberty so granted or attempted to influence the prosecution witnesses. It is also pertinent to note that the victim was admittedly close to attaining the age of majority at the relevant time. The material on record *prima facie* indicates that the victim had accompanied the applicant voluntarily and remained in his company for several days, during which period they resided at the house of the applicant's relative. The delay of about 20 days in lodging the First Information Report and the delay of approximately 30 days in conducting the medical examination of the victim are circumstances which, at this stage, require consideration while examining the prayer for suspension of sentence, without entering into a detailed re-appreciation of evidence.

8. This Court is conscious of the seriousness of the offences alleged and the statutory rigour of the provisions of the Protection of Children from Sexual Offences Act, 2012. However, at the stage of considering an application for suspension of sentence pending appeal, the Court is required to assess whether an arguable case is made out and whether continued incarceration of the applicant is necessary. The grounds urged by the applicant raise debatable issues which shall require detailed examination at the time of final hearing of the appeal.

9. Further, considering the quantum of sentence imposed, the fact that the appeal is not likely to be heard and decided in the near future, and the settled position of law that prolonged incarceration during pendency of appeal may result in prejudice to the appellant, this Court finds that the balance tilts in favour of granting suspension

of sentence. Adequate conditions can be imposed to secure the presence of the applicant and to ensure that the victim is not subjected to any form of harassment or intimidation.

10. In view of the cumulative effect of the aforesaid circumstances, this Court is of the considered opinion that the applicant has made out a case for suspension of sentence and grant of bail pending disposal of the appeal. Hence, the following order is passed:

ORDER

- i. The application is allowed.
- ii. The substantive sentence imposed upon the applicant by the learned Extra Joint Additional Sessions Judge (Special Court), Wardha in Spl.(Ch.Act) Case No.15/2017 is hereby suspended pending final disposal of the appeal.
- iii. The applicant shall be released on bail on his executing a P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand only) with one solvent surety in the like amount to the satisfaction of the trial Court.
- iv. The applicant shall report before the trial Court on the first Monday of every calendar month initially for two months.
- v. The applicant shall furnish his Mobile Number(s) as well as his residential addresses to the concerned Sessions Court and shall inform the Court of any change in address or contact details forthwith.
- vi. It is clarified that the learned A.P.P. and/or the Investigating Officer shall be at liberty to move for

cancellation of bail in the event of breach of any of the
aforementioned conditions or for any other sufficient cause.

vii. The application stands disposed of accordingly.

JUDGE

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