



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

CRIMINAL APPLICATION (APPA) NO. 1165 OF 2024 IN
CRIMINAL APPEAL NO. 690 OF 2024

Jitesh Ramesh Bhalerao V/s 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. M.P. Kariya, counsel for the applicant/appellant.

Mrs. Ritu Sharma, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 08/01/2025.

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

2. The appellant is the father of the victim prosecuted of the offence punishable under Sections 354, 375(b), and 376-AB read with Section 375(b) of the Indian Penal Code (for short 'IPC') and under Sections 7, 10 read with Section 9(m)(n)(p) and 12 of the Protection of Children From Sexual Offences Act, 2012 (for short "POCSO Act"). After recording the evidence and re-appreciating the same, the learned Special Court held the accused guilty of the offence punishable under Section 10 read with Section 9(m) (n) (p) of the POCSO Act and sentenced him to suffer Rigorous Imprisonment for five years and to pay a fine of Rs. 5,000/-. He is also convicted for the offence punishable under Sections 8 and 12 of the POCSO Act, the accused is further

held guilty of the offence punishable under Section 354, but no separate sentence was awarded.

3. Heard learned counsel, Mr. M.P. Kariya, for the applicant, who submitted that limited period punishment is imposed. Moreover, the accused is implicated due to the matrimonial dispute between husband and wife by taking assistance of the daughter. The appellant has many chances of success in the appeal, but the appeal would take its own time for its final disposal. In the meantime, if the sentence is executed, the appeal would become infructuous.

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

5. Heard learned counsel for the appellant and learned APP for the State, perused the impugned judgment as well as evidence on record, from which it reveals that it is a case of a molestation. Admittedly, the appeal would take its own time for its final disposal. In the meantime, if the sentence is executed, the appeal would become infructuous. Moreover, the punishment imposed is of limited period. Considering all these aspects, the application deserves to be allowed. Accordingly, I proceed to pass the following order.

ORDER

- a. Application is **allowed**.

- b. The execution of the sentence passed in Special (POSCO) Case No. 35/2020 is hereby suspended till disposal of the appeal.
 - c. The appellant shall be released on bail on executing PR. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- 6.. The criminal application (APPA) No. 1165 of 2024 is **disposed of**.

CRIMINAL APPEAL NO. 690 OF 2024

- 1. Record and Proceedings is already called.
- 2. Appeal be listed before this Court after preparation of paper-book.

[URMILA JOSHI-PHALKE, J.]