



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

Criminal Application [APPA] No.931 of 2025

in

Criminal Appeal No.552 of 2025

Manohar Marotrao Kolhe

vs.

*The State of Maharashtra, through Police Station Officer, Saoner Police Station,
District Nagpur 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. V.R. Borkar, Advocate for the Applicant/Appellant.
Mrs. H.N. Prabhu, A.P.P. for Non-applicant No.1/State.
Ms. Radha Mishra, Advocate for Non-Applicant No.2.*

CORAM : NIVEDITA P. MEHTA, J.

DATE : 17th DECEMBER, 2025.

Heard

2. The applicant has preferred the present appeal challenging the judgment and order dated 22/05/2025 passed by the learned Additional Sessions Judge (Special Judge, POCSO Court), Nagpur, in Special Criminal (Child) Case No.324/2022, whereby the applicant came to be convicted for the offences punishable under Section 4 of the Protection of Children from Sexual Offences Act, 2012 and Section 3 of the Maharashtra Prevention and Eradication of Human Sacrifice and Other Inhuman, Evil and Aghori Practices and Black Magic Act, 2013.

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

4. Notice was issued to the non-applicants. Learned Additional Public Prosecutor Mrs. H.N. Prabhu waives service of notice for non-applicant No.1/State and learned Counsel Ms. Radha Mishra waives service for non-applicant No.2.

5. Learned Counsel appearing for the applicant submits that the applicant was arraigned as accused No.2 in the crime and that there are no specific allegations against him of having committed any penetrative sexual assault. It is submitted that the allegations, at the highest, pertain to his alleged involvement in certain black magic practices. Learned Counsel further submits that the applicant was on bail throughout the course of the trial and that he has not misused the liberty granted to him.

6. Learned Counsel for the applicant invites attention of this Court to the observations recorded by the trial Court in paragraph 53 of the impugned judgment which read thus:

“53. I then go to the note taken by the Court in para 11 during evidence of the victim. The note reads thus:

“Witness is discharged from Mental Hospital, Nagpur. She was admitted in the Hospital. Discharge card is filed on record. Witness is unable to understand the question sometimes. Some questions are properly answered by her. Again, when same question is put to her, she could not answer it properly.”

By keeping of all above factors of behavioral disorder of the victim in mind, I go to her evidence. Victim narrated before the police that the accused Yuvraj performed sex with her. Accused Manohar Kolhe (Baba) moved and pressed his hand on her back. Even in the Report, above facts are noted. Investigating Officer Smt. Sonali Sachin Raskar (PW-13) admitted that the victim has not narrated in her statement about commission of sexual

assault by the accused Manohar Kolhe. Victim only narrated that the accused Manohar moved his hand over her bank. However, the victim (PW-9) deposed that her mental condition was not sound. Hence, her Aunt used to take her to the hospital for treatment.”

7. Learned Counsel for the applicant submits that the evidence on record gives rise to an arguable case on merits and that the applicant has a reasonable chance of success in the appeal. It is further submitted that the sentence imposed is of short duration and that the appeal is not likely to be heard finally in the near future. On these grounds, suspension of sentence is sought.

8. Per contra, learned Additional Public Prosecutor and learned Counsel appearing for non-applicant No.2 oppose the application. They submit that though there are certain variations in the deposition of the victim, her evidence cannot be discarded solely on the ground of mental illness. They fairly submit that prior to her deposition before the Court, there were no allegations against the present applicant regarding sexual intercourse with the victim and that such allegation surfaced for the first time in her deposition before the trial Court. They, however, submit that the DNA report is adverse to the applicant inasmuch as the blood detected on the nicker of the victim was found to match with that of the applicant. It is further submitted that if the sentence is suspended, there is a likelihood of the applicant indulging in similar activities.

9. Upon consideration of the rival submissions and on perusal of the impugned judgment and the evidence on record, and having regard to the nature of the allegations, the role attributed to the applicant, the observations of the trial Court itself regarding the mental condition of the victim, coupled with the fact that the applicant was on bail throughout the trial and has not misused the liberty, as well as the

fact that the sentence imposed is of short duration and the appeal is likely to take considerable time for final disposal, this Court is of the considered view that the applicant has made out a case for suspension of sentence pending the appeal.

ORDER

- i. The application is allowed.
- ii. The substantive sentence imposed upon the applicant by the learned Additional Sessions Judge (Special Judge, POCSO Court), Nagpur in Special Cri. (Child) Case No.324/2022 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.25,000/- (Rupees Twenty Five 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 day of every calendar month until further orders.
- v. The applicant shall furnish his Mobile Number(s) as well as his residential address.
- vi. The application is disposed of

JUDGE

**sandesh*