



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

Criminal Application [APPA] No.1002 of 2025

in

Criminal Appeal No.601 of 2025

Sandeep s/o Ramprasad Hirapure

vs.

*The State of Maharashtra, Through P.S.O., Police Station Kolahpuri Gate,, Taluka
and District Amravati 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. Anil Mardikar, Senior Advocate a/b Mr. R.A. Mardikar, Advocate
for the Applicant/Appellant.*

Mrs. H.N. Prabhu, A.P.P. for Non-Applicant/Respondent No.1.

Mrs. Deepali Patil-Sahare, Adv. for Non-Applicant/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 10/11/2025 passed by the learned Special Judge (POCSO), Amravati, in Special Case No. 35 of 2020, whereby the applicant came to be convicted for the offences punishable under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, and under Section 341 of the Indian Penal Code, and was sentenced to suffer rigorous imprisonment for five years and to pay a fine of ₹20,000/-, in default, to suffer simple imprisonment for six 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. Non-applicant No.2 – the victim, is duly served. Learned Counsel Mrs. Deepali Patil-Sahare has been appointed from the High Court Legal Aid Sub-Committee, Nagpur, to represent non-applicant No.2.

5. The learned Counsel appearing for the applicant submits that the applicant was on bail throughout the trial and that he did not misuse the liberty granted to him. It is further submitted that the prosecution case suffers from material omissions and contradictions in the testimonies of the prosecution witnesses, which go to the root of the matter. The learned Counsel submits that the applicant has already undergone a substantial period of incarceration during the course of the trial as well as during the pendency of the present appeal. It is contended that the applicant has an arguable case on merits and that, considering the docket position of the Court, the appeal is not likely to be taken up for final hearing in the near future. It is further submitted that the sentence imposed is of relatively short duration and that continued incarceration during pendency of the appeal would cause undue prejudice to the applicant. On these grounds, the learned Counsel prays for suspension of sentence and grant of bail.

6. Per contra, the learned Additional Public Prosecutor vehemently opposes the application, submitting that the learned Trial Court, upon proper appreciation of the evidence on record, has rightly convicted the applicant for the offences punishable under Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, and under Section 341 of the Indian Penal Code. It is submitted that, if the sentence is suspended, there is every likelihood that the applicant may misuse the liberty granted to him. It is, therefore, contended that no case is made out for interference and that the application deserves to be rejected.

7. The learned Counsel appearing for non-applicant No.2 – the victim, adopts the submissions advanced by the learned Additional Public Prosecutor for the State.

8. Upon consideration of the rival submissions and on perusal of the record, this Court notes that the applicant was on bail throughout the course of the trial and there is no material placed on record to indicate that he misused the liberty so granted. The sentence imposed upon the applicant is for a fixed term of five years. Having regard to the nature of the contentions raised, which raise debatable issues requiring examination at the stage of final hearing, and considering that the appeal is not likely to be heard and decided in the near future, this Court is of the view that continued incarceration of the applicant during pendency of the appeal is not warranted at this stage.

9. In the aforesaid circumstances, this Court is satisfied 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 Special Judge (POCSO) , Amravati in Special Case No.35/2020 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 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.
- viii. List the appeal for further consideration on 23rd January, 2026.

JUDGE

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