



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

CRIMINAL APPLICATION (APPA) NO.785/2025

IN

CRIMINAL APPEAL NO.441/2024

**Rajesh s/o Gunaji Boriwar Vs. State of Maharashtra, through its Police
Station Officer, Police Station Saoner, 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
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Mr. S.D. Chande, Advocate for Appellant / Applicant
Mr. A.R. Chutke, APP for Respondent No.1
Mr. A.S. Gadmade, Adv. (Appointed) for Respondent no.2

CORAM: NIVEDITA P. MEHTA, J.

DATED : 3rd DECEMBER, 2025

1. This application has been filed by the applicant under Section 389(1) of the Criminal Procedure Code, seeking suspension of the sentence imposed upon him. The applicant was convicted by the learned Extra Joint District Judge-4 and Additional Sessions Judge, Nagpur, Special Court (POCSO), Nagpur in Special Case No. 598/2020, by judgment and order dated 09.02.2024.

2. The applicant stands convicted of the following offences:

Section 6 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act): sentenced to suffer rigorous imprisonment for twenty years and to pay a fine of Rs. 10,000/-, and in default, to undergo rigorous imprisonment for six months;

Section 506-I of the Indian Penal Code (IPC): sentenced to suffer rigorous imprisonment for two years.

3. Learned counsel for the applicant submits that the applicant–appellant was on bail throughout the trial. It is further submitted that the applicant is the cousin brother of the victim (being the son of the victim’s father’s sister). The victim is present before the Court and, upon being specifically questioned regarding the suspension of the applicant’s sentence, has stated that she has no objection to the same.

4. Per contra, the learned Additional Public Prosecutor submits that the victim was a minor at the time of the incident. It is contended that the victim delivered a male child on 09.09.2020 as a consequence of the alleged sexual assault, and therefore the State opposes the prayer for suspension of sentence.

5. Learned counsel appearing for respondent No. 2 – the victim, further submits that when the applicant was previously granted bail in connection with Crime No. 546/2020, he had breached the conditions of that bail. On this ground, he opposes the present application.

6. Having considered the submissions of the parties and taking note of the fact that the victim is present before the Court and has expressed that she has no objection to the suspension of the applicant’s

sentence, this Court is of the view that the substantive sentence imposed upon the applicant can be suspended during the pendency of the appeal, subject to appropriate safeguards. Accordingly, the application is allowed. The substantive sentence imposed upon the applicant by the learned Extra Joint District Judge-4 and Additional Sessions Judge, Nagpur, Special Court (POCSO), Nagpur, in Special Case No. 598/2020 by judgment and order dated 09.02.2024, is hereby suspended, subject to the following terms and conditions:

- I. The applicant / appellant shall be released on bail on furnishing PR bond of Rs.25,000/- with solvent surety in the like amount before the trial Court.
- II. The applicant shall report before the concerned trial Court on the first day of every calender month until further orders.
- III. The applicant shall furnish his current residential address and mobile number to the concerned Sessions Court and shall inform the Court about change of address or contact number forthwith.

The application shall stand disposed off.

CRIMINAL APPEAL NO.441/2024

Heard.

ADMIT.

Call R & P.

Issue notice to the respondents, returnable on 05.01.2026.

The learned Additional Public Prosecutor waives service of notice for respondent No.1.

Mr. Gadmade, learned counsel waives service of notice for respondent no.2.

(NIVEDITA P. MEHTA, J.)

MP Deshpande