

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

CRIMINAL APPLICATION (APPA) NO. 668/2025
IN
CRIMINAL APPEAL NO.378/2025

**Rahul S/o Nirmal Kunwar Vs. State of Maharashtra Through P.S.O.
Mankapur, Police Station Mankapur, Tah. & Distt. 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. Parag J. Sonole, Advocate for Applicant
Mrs. H.N. Prabhu, APP for Respondent

CORAM: NIVEDITA P. MEHTA, J.

DATED : 7th NOVEMBER, 2025

1. The applicant has preferred the present appeal challenging the judgment and order dated 16.05.2025, passed by the learned Extra Joint District Judge and Additional Sessions Judge (Special Judge, POCSO Court), Nagpur in Special Criminal (Child) Case No. 108/2019.

2. The applicant stands convicted for the following offences:

(a) Under Section 8 of the Protection of Children from Sexual Offences Act, 2012, and sentenced to suffer rigorous imprisonment for three years and to pay a fine of Rs. 5,000/-, in default to suffer rigorous imprisonment for three months.

(b) Under Section 506 of the Indian Penal Code (IPC), sentenced to suffer rigorous imprisonment for one year and to pay a fine of Rs. 2,000/-, in default to suffer rigorous imprisonment for two months.

3. The learned counsel for the applicant submits that the applicant has been falsely implicated by the victim, as the applicant was in a relationship with the victim's mother and was residing in the same house. He refers to the testimony of the victim, wherein she stated that it was difficult for her and her brother to see the applicant/accused taking the place of their father. It is further contended that the allegations levelled by the victim are motivated by vengeance against the applicant. The learned counsel submits that the applicant/accused was on bail throughout the trial and has not misused the liberty granted to him. He further contends that the findings recorded by the learned Trial Court are erroneous and have been arrived at without proper appreciation of the evidence led by the prosecution. On these grounds, he prays for suspension of sentence during the pendency of the appeal.

4. Per contra, the learned Additional Public Prosecutor submits that both the victim and her mother have categorically deposed that the applicant had sexually harassed the victim and that there are no material discrepancies in their testimonies. It is further submitted that, in the event of suspension of

sentence, there exists a likelihood of the applicant tampering with the prosecution evidence.

5. Upon considering the rival submissions, the nature of the offence, the sentence imposed, and the fact that the appeal is likely to be heard in the near future, this Court is of the considered view that a case is made out for suspension of sentence pending appeal.

6. Accordingly, the application is allowed. The substantive sentence imposed by the learned Extra Joint District Judge and Additional Sessions Judge (Special Judge, POCSO Court), Nagpur in Special Criminal (Child) Case No. 108/2019, vide judgment and order dated 16.05.2025, is hereby suspended, subject to the following terms and conditions:

I. The applicant/appellant shall be released on bail on furnishing a personal bond of Rs. 25,000/- with one solvent surety in the like amount before the trial Court.

II. The applicant shall report before the concerned trial Court on the first Monday of every calendar 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 forthwith about any change of address or contact number.

The application shall stand disposed off.

CRIMINAL APPEAL NO. 378/2025

Heard.

ADMIT.

Issue notice to the respondent.

The learned APP waives service of notice.

Call for R & P

(NIVEDITA P. MEHTA, J.)

MP Deshpande