



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

CRIMINAL APPLICATION (APPA) NO.912/2025
IN
CRIMINAL APPEAL NO. 545/2025

**Shiva @ Shivam Shrawan Gorghate Vs. The State of Maharashtra,
through Police Station Officer, Police Station Ballarsha**

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.S. Bhalerao, Advocate for applicant
Mr. A.R.Chutke, APP for Respondent

CORAM: NIVEDITA P. MEHTA, J.

DATED : 3rd NOVEMBER, 2025

1. This is an application filed by the applicant under Section 430 of the Bhartiya Nagarik Suraksha Sanhita, 2023 for suspension of sentence. The applicant was convicted by the learned Special Judge, Chandrapur in Spl. POCSO Case No. 101/2018 vide judgment and order dated 03.10.2025.

2. The applicant stands convicted for the following offences:

Under Section 11 punishable under Section 12 of Protection of Children from Sexual Offences Act, 2012.

Section 354A(1)(ii) of the Indian Penal Code (IPC) – sentenced to rigorous imprisonment for 3

years and fine of ₹5,000/-, in default to suffer R.I. for 3 months;

Section 342 of the Indian Penal Code (IPC) – sentenced to rigorous imprisonment for 1 year.

Section 506 of the Indian Penal Code (IPC) – sentenced to rigorous imprisonment for 6 months;

3. Learned counsel for the applicant submits that the applicant was on bail throughout the trial and has not misused the liberty granted to him. It is submitted that the applicant has been sentenced to undergo rigorous imprisonment for three years pursuant to the judgment and order dated 03.10.2025 passed in Special (POCSO) Case No. 101 of 2018 by the learned Special Judge, Chandrapur.

4. Learned counsel further submits that the prosecution has failed to establish the foundational facts required under Section 29 of the Protection of Children from Sexual Offences Act, 2012, for raising the presumption against the accused. It is further pointed out that the material witness has not supported the case of the prosecution. In these circumstances, it is contended that there are substantial grounds to believe that the applicant has fair chances of success in the appeal, and therefore, the sentence imposed upon him deserves to be suspended pending disposal of the appeal.

5. Per contra, learned Additional Public Prosecutor has opposed the application, submitting that there exists a reasonable apprehension that if the applicant is released on bail, he may attempt to influence or tamper with the prosecution witnesses and evidence.

6. Upon considering the rival submissions, the nature of the offence, the sentence imposed, and the fact that the applicant was on bail during the trial without any reported misuse of liberty, this Court is of the considered opinion that a case is made out for suspension of sentence pending appeal.

7. Accordingly, the application is allowed. The substantive sentence imposed by the learned Special Judge, Chandrapur, in Special (POCSO) Case No. 101 of 2018, vide judgment and order dated 03.10.2025, 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.20,000/- 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. 545/2025

Heard.

ADMIT.

Issue notice to the respondent.

The learned APP waives service of notice.

Call for R & P

(NIVEDITA P. MEHTA, J.)

MP Deshpande