



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

CRIMINAL APPLICATION (APPA) NO.990/2025

IN

CRIMINAL APPEAL NO.591/2025

**Dhammadip @ Vikky Shivram Chahande Vs. State of Maharashtra Through Police
Station Officer, Police Station Mouda, District Nagpur**

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. K.Y. Mandpe, Advocate for Appellant
Mr. A.R.Chutke, APP for Respondent

CORAM: NIVEDITA P. MEHTA, J.

DATED : 19th DECEMBER, 2025

1. The applicant has preferred the present application under Section 430 of the Bharatiya Nagrik Suraksha Sanhita, 2023 (corresponding to Section 389 of the Code of Criminal Procedure, 1973) seeking suspension of sentence pending appeal and release on bail, assailing the judgment and order dated 19.11.2025 passed by the learned Additional Sessions Judge-3, Nagpur in Sessions Case No. 295 of 2021.

2. The applicant has been convicted and sentenced as under:

(i) For the offence punishable under Section 376(2)(n) of the Indian Penal Code, to suffer rigorous imprisonment for ten years and to pay a fine of Rs.10,000/-, in default to suffer simple imprisonment for six months;

(ii) For the offence punishable under Section 450 of the Indian Penal Code, to suffer rigorous imprisonment for ten years and to pay a fine of Rs.5,000/-, in default to suffer simple imprisonment for six months;

(iii) For the offence punishable under Section 354(d) of the Indian Penal Code, to suffer rigorous imprisonment for three years and to pay a fine of Rs.1,000/-, in default to suffer simple imprisonment for three months;

(iv) For the offence punishable under Section 342 of the Indian Penal Code, to suffer simple imprisonment for six months and to pay a fine of Rs.1,000/-, in default to suffer simple imprisonment for one month;

(v) For the offence punishable under Section 323 of the Indian Penal Code, to suffer simple imprisonment for six months and to pay a fine of Rs.1,000/-, in default to suffer simple imprisonment for one month;

(vi) For the offence punishable under Section 504 of the Indian Penal Code, to suffer simple imprisonment for six months and to pay a fine of Rs.1,000/-, in default to suffer simple imprisonment for one month; and

(vii) For the offence punishable under Section 506 of the Indian Penal Code, to suffer simple imprisonment for six months and to pay a fine of Rs.1,000/-, in default to suffer simple imprisonment for one month.

3. Learned counsel for the applicant submits that the applicant was on bail throughout the course of the trial and has not misused the liberty so granted. It is contended that the conviction rests primarily on the sole testimony of the prosecutrix, which, according to the learned counsel, suffers from material inconsistencies and variations. It is further submitted that the testimonies of other prosecution witnesses are also not free from contradictions and omissions. Attention is invited to the delay of approximately seven hours in lodging the First Information Report, for which no satisfactory explanation has been brought on record by the prosecution. It is further submitted that though it is alleged that the applicant had sexually exploited the prosecutrix about one month prior to lodging of the report, the said incident was admittedly not reported earlier. On these premises, it is argued that the relationship between the applicant and the prosecutrix was consensual. Learned counsel further submits that the medical evidence does not corroborate the prosecution case and that the Chemical Analyser's report does not form part of the prosecution evidence. It is, therefore, urged that the conviction is unsustainable and that the applicant has an arguable case on merits. Hence, suspension of sentence during pendency of the appeal is sought.

4. Per contra, learned Additional Public Prosecutor vehemently opposed the application and submitted

that the nature and gravity of the offences are serious. It is contended that in the event of suspension of sentence and release of the applicant on bail, the possibility of misuse of liberty cannot be ruled out. Learned APP submits that the alleged contradictions and omissions have been duly considered by the trial Court and that the prosecution has proved the case beyond reasonable doubt. It is, therefore, urged that no case for suspension of sentence is made out.

5. This Court has given anxious consideration to the submissions advanced by the learned counsel for the applicant and the learned Additional Public Prosecutor, and has perused the impugned judgment and the evidence on record, to the limited extent permissible at the stage of consideration of an application for suspension of sentence under Section 430 of the Bharatiya Nagrik Suraksha Sanhita, 2023.

6. It is well settled that while considering an application for suspension of sentence pending appeal, the appellate Court is not expected to undertake a detailed re-appreciation of evidence or record findings on the merits of the conviction. The Court is required to examine whether the appeal raises arguable points, whether the sentence is of such nature that its execution may be suspended, and whether the conduct of the applicant warrants the exercise of discretion in his favour.

7. In the present case, it is not in dispute that the applicant was on bail throughout the trial and there is no material placed on record to indicate that he has misused the liberty so granted or attempted to influence the witnesses or obstruct the course of justice. The conduct of the applicant during trial is, therefore, a relevant circumstance which weighs in his favour at this stage.

8. The conviction of the applicant is primarily based on the testimony of the prosecutrix. The learned counsel for the applicant has pointed out certain inconsistencies, omissions, and alleged variances in her version, as also in the testimony of other prosecution witnesses. It is also urged that there is a delay of about seven hours in lodging the First Information Report and that the prosecution has not offered a satisfactory explanation for such delay. It is further contended that the medical evidence does not lend corroboration to the prosecution case and that the Chemical Analyser's report has not been brought on record.

9. Without expressing any opinion on the correctness or otherwise of these submissions, this Court finds that the issues raised by the applicant are not frivolous and give rise to arguable points which will require detailed examination at the stage of final hearing of the appeal. The evidentiary appreciation undertaken by the trial Court, the effect of the alleged delay in lodging the FIR, and the extent of

corroboration by medical and other evidence are matters which fall within the domain of appellate scrutiny.

10. The offences for which the applicant has been convicted are undoubtedly serious in nature. However, seriousness of the offence, by itself, cannot be the sole ground to deny suspension of sentence, particularly when the appeal is likely to take time for final disposal and the applicant has already undergone a part of the substantive sentence.

11. Having regard to the overall facts and circumstances of the case, the nature of evidence, the conduct of the applicant during trial, and the principles governing the exercise of jurisdiction under Section 430 of the Bharatiya Nagrik Suraksha Sanhita, 2023, this Court is of the prima facie opinion that the applicant has made out a case for suspension of sentence pending appeal.

12. The substantive sentence imposed vide the judgment and order dated 19.11.2025 in Sessions Case No. 295/2021 by the Additional Sessions Judge-3, Nagpur is hereby suspended till final disposal of the appeal. The applicant shall be released on the following terms.

I. The applicant shall execute PR bonds in the sum of Rs.20,000/- with one solvent surety in the like amount.

II. The applicant shall report to the trial Court on the first day of every calendar month until further orders.

III. The applicant shall furnish his current address proof and mobile number to the concerned trial Court and shall inform the Court of any change in address or the contact number.

The criminal application is disposed off.

(NIVEDITA P. MEHTA, J.)

MP Deshpande