

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

CRIMINAL APPLICATION (APPA) NO.355 OF 2023
IN
CRIMINAL APPEAL NO. 213 OF 2023

Sajjad Shaikh Akbar Shaikh

Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Yavatmal Rural,
and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. Mir Nagman Ali, Advocate for appellant.

Mr. M. J. Khan, APP for respondent No.1/State.

Ms. Mohini A. Sharma, appointed Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 08/08/2023

1. The present application is for suspension of sentence and releasing the appellant on bail.

2. The appellant was prosecuted for the offences punishable under Sections 354, 354-A and 323 of the Indian Penal Code and under Section 8 of the Protection of Children From Sexual Offences Act.

3. After recording the evidence, the learned trial Court has held the present appellant guilty for the offence punishable under Section 323 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three months and to pay fine of Rs.500/-. The present appellant further convicted for the offence punishable

under Section 8 of the Protection of Children From Sexual Offences Act and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.5000/-.

4. The appellant has challenged the said judgment and order of sentence on various grounds including the ground that the appeal will take its own time for final decision. In the meanwhile, if the sentence is executed then purpose of preferring this appeal would be frustrated.

5. The said application is strongly opposed by the State on the ground that the appellant has not made out the ground to suspend the sentence. The learned trial Court has rightly appreciated the evidence and rightly convicted the appellant.

6. Heard learned Counsel Mr. Mir Nagman Ali, for the appellant, learned APP Mr. Khan, for the State and learned appointed Counsel Ms. Mohini A. Sharma, for the respondent No.2/victim. Perused the impugned judgment and the grounds of the appeal. The appellant has made out the case that there are inconsistency in the evidence of the prosecution. The appellant has every chance of success in the present appeal, however, the appeal take its own time for final decision. In the meantime, if the sentence is executed then entire purpose

of preferring the appeal would be frustrated. In view of that, the application is allowed. Accordingly, I proceed to pass following order.

ORDER

- (i) The application is allowed.
- (ii) The execution of the sentence is suspended till disposal of the appeal.
- (iii) The appellant **Sajjad Shaikh Akbar Shaikh** be released on bail on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iv) The appellant shall not contact the respondent No.2 in any manner and shall not cause any trouble to her in any manner.
- (v) On breach of the condition, and if the appellant found contacting to the victim in any manner, the bail granted to the appellant deserves to be cancelled.

The application is disposed of.

CRIMINAL APPEAL NO. 213 OF 2023

- 1. The record and proceeding is already received.
- 2. The appeal be placed before the Court for final disposal, after preparation of the paper book.

(URMILA JOSHI-PHALKE, J.)