

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1926 OF 2026
IN
CRIMINAL APPEAL NO.494 OF 2026**

Laxman Radhakisan Kamble .. Applicant

Versus

The State of Maharashtra And Anr. .. Respondents

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Mr. Amol A. Shinde, a/w. Ms. Jayashree G. Gayawal, for the Applicant.

Mr. Tanveer Khan, APP, for the Respondent-State.

Mr. Sanjay Prabhala, for the Original Complainant.

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**CORAM: BHARATI DANGRE &
ASHISH S. CHAVAN, JJ.**

DATED: 24th AUGUST, 2026

P.C:-

1. This is an Application seeking suspension of the sentence imposed by the learned Special Judge, Nashik, *vide* Judgment and Order dated 12.02.2026 along with a prayer for grant of bail.

2. The Applicant is the solitary accused who was arraigned for offences punishable under Sections 137(2), 64(2), 65(1), 351(2)(3) of the Bhartiya Nyaya Sanhita, 2023 and Sections 4, 6,

8 and 12 of the Protection of Children from Sexual Offences Act, 2012 (POCSO). The present Applicant was convicted for the aforesaid offences and sentenced to suffer rigorous imprisonment for life and to pay fine of Rs.1,00,000/-, in default of which, he was sentenced to suffer simple imprisonment for one year. The Applicant was acquitted of the offence punishable under Sections 137(2) and 351 (2)(3) of the Bhartiya Nyaya Sanhita, 2023.

3. Aggrieved by the aforesaid conviction, the Applicant has separately preferred Criminal Appeal No.494 of 2026, which was admitted by this Court *vide* its order dated 22.06.2026.

4. Heard Mr. Amol A. Shinde, learned counsel for the Applicant, Mr. Tanveer Khan, learned APP for the Respondent-State and Mr. Sanjay Prabhala, for the Original Complainant. Perused the Interim Application and the Memo of Appeal.

5. The case of the prosecution in a nutshell is that, the Applicant is the husband of the informant. The victim is the sister of the informant. At the relevant time, she was aged 15 years. She was staying at the house of the informant. On

02.10.2024, at about 2.00 p.m., the Applicant took the victim and his son to bring vegetables. They did not return till 6.00 p.m. The informant received a phone call from her sister-in-law to take her son, who was left in the house of the brother of the Applicant. Victim did not return home. Informant contacted all her relatives but could not find the victim. The Applicant also was not at home. His clothes and aadhar card were also not in the house. On 04.10.2024, the informant lodged a complaint at Indira Nagar Police Station against the Applicant accusing him of kidnapping the victim (her sister). On 13.10.2024, the Applicant returned with the victim girl. Victim disclosed that the Applicant had subjected her to forcible sexual relations time to time. The Applicant also threatened the victim that if she discloses the same to anyone, then the marriage between him and her sister will be jeopardised. Victim was sent for medical examination. Her statement was recorded by police and learned Magistrate. She was medically examined. Applicant was arrested. His medical examination was conducted. Panchanamas were prepared. Statements of witnesses were recorded. School leaving certificate of the victim was obtained. On culmination of

investigation, a charge-sheet was filed against the Applicant for the aforesaid offences. Since the Applicant pleaded not guilty, and claimed to be tried, the prosecution examined as many as eight witnesses during the trial. The defence of the Applicant is that his wife has falsely implicated him since she was having illicit relations.

6. On behalf of the Applicant, it was contended that the prosecution has not established the age of the victim. No bone ossification test was done. The trial Court has relied on the admission form and entry in the general register of Matoshri Savitribai Phule Primary School, Nashik, as proof of birth of the victim. However, the admission form was based on an affidavit which was false. It was also contended that the charge of kidnapping against the Applicant was not proved and in the light of the acquittal of the Applicant for the offence of kidnapping, the offence for rape and aggravated sexual assault under POCSO Act would not be sustained. It was also urged that there are several omissions and contradictions in the testimony of the victim which falsify the case of the prosecution. Lastly, it was argued that since the Applicant is in custody since last two years,

he deserves to be enlarged on bail.

7. Learned APP Mr. Khan opposed the grant of bail by inviting our attention to the testimony of the informant and the victim which corroborate with each other. He submits that the testimony of the victim establishes that even prior to being taken away by the Applicant, she was subjected to sexual assault by him in the house of her sister, when her sister was not there. He contends that the age of the victim is conclusively established by the testimony of the headmaster of the concerned school. The medical evidence is also in consonance with the allegation of rape and penetrative sexual assault.

8. A perusal of the record indicates that the evidence against the Applicant rests on the testimony of the victim, her sister, medical evidence and proof of age of the victim to bring her within the purview of the offence under POCSO. The informant has deposed that prior to her being taken away by the Applicant, he had committed sexual assault on her forcibly on three to four occasions in the house of her sister (informant). She has deposed about how the Applicant where again he subjected her to

penetrative sexual intercourse when he had forcibly taken her away from her house. Although she was cross-examined extensively, there are no significant omissions or improvements that the defence has elicited contradicting her prior statements which erode her credibility. The evidence of the PW No.1(informant), who is the sister of the victim also corroborates the evidence of PW No.2. The fact of being subjected to sexual assaulted by the Applicant was narrated to PW. No. 1 by PW No.2. There are no significant omissions or contradictions of the PW No.2 *qua* her prior statement to the police and to the Magistrate. The doctor who examined victim on 14.10.2024, opines that her hymen was torn. Although the learned Counsel for the Applicant has sought to make capital out of the fact that the opinion of the doctor suggests that there was no fresh injury on her external genitals, and hence, the assault was not forcible. Insofar as the medical examination is concerned, the absence of any fresh injury on the external genitals of the victim girl is of no consequence in the light of the oral evidence of the victim and the proof of her age along with the presumptions under the POCSO Act. Even otherwise, the victim girl left the house on

2nd October and came back 10 to 12 days later. Her medical examination was conducted on 14.10.2024. As per her deposition, she was assaulted sexually on multiple occasions by the Applicant from 2nd October onwards and hence the absence of fresh injury per se would not diminish the credibility of the victim's evidence in any manner. The headmaster of Matoshree Savitribai Phule Primary School, Nashik, was examined as PW No.4. He deposes that the date of birth of the victim is 15.08.2009 on the admission form. It corroborates the entry in the general register and school leaving certificate. This establishes the age of the victim. It is pertinent to note that the spot panchanama of the spot where the sexual assault took place was admitted by the defence.

9. In the wake of the aforesaid facts, circumstances and discussion, this is not a fit case for grant of bail pending Appeal to the Applicant. Resultantly, Interim Application No. 1926 of 2026 is dismissed, pending the appeal.

(ASHISH S. CHAVAN, J.)

(BHARATI DANGRE, J.)