

Rohit Ghuge

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3057 OF 2025
IN
CRIMINAL APPEAL NO. 894 OF 2025

Dattatraya Hanumant Tilekar

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

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Mr. Prithwiraj Choudhari, Advocate for the Applicant.

Ms. Sangeeta D. Shinde, APP for Respondent No. 1-State.

Ms. Gunjan Mangla a/w Ms. Tithi Jakhadi for Respondent No. 2.

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

DATE : **08th OCTOBER 2026.**

ORDER [Per Ashish S Chavan, J.].

1. The Applicant who is arraigned as the sole Accused in the proceedings before the Trial Court has approached this Court seeking suspension of sentence imposed on him vide order and judgment dated 19.05.2025 convicting him for offenses punishable under Sections 376 (1), 376 (2) (i) and (n), 376 (3) of the Indian Penal Code, 1860 (“IPC”) and Sections 4 (2), 6, 8 and 12 of The Protection of Children from Sexual Offences Act, 2012 (“POCSO Act”) and bail pending Appeal. The Applicant was sentenced to suffer imprisonment for life and to pay a fine

of Rs.30,000/-, in default of which to suffer simple imprisonment for two years for the offence punishable under Sections 4 (2), 6, 8 and 12 of POCSO Act.

2. Heard, Mr. Choudhari, for the Applicant and Ms. Shinde, APP for Respondent No. 1-State and Ms. Mangla for Respondent No. 2, perused the Application and Appeal.

3. The case of the prosecution is that the minor victim aged about 14 years was residing along with her sister, the Applicant (her brother in law) and other relatives at Gojubavi, Jadhav Vasti, Baramati and was studying at a school nearby. She had lost her parents and had done part of her schooling in a boarding school at Yerawada. Since a year prior to the incident, she was staying with her relatives at the aforesaid place. On 05.05.2019, she along with her sister and the Applicant had gone to Khamgaon for the wedding of the daughter of her paternal aunt. The victim came back to Gojubavi along with the Applicant. Her sister remained in Khamgaon. The victim was about to sleep outside the house since it was summer, at that time the Applicant told her to sleep inside the house since there were insects outside. At his request, the victim went to sleep inside. A few hours after she went to sleep, the Applicant came to her and started undressing her because of which she woke up. She asked the Applicant what he was doing, but he threatened her not to shout otherwise, he would throttle her to death. Thereafter, the

Applicant undressed her and sexually assaulted her repeatedly on two occasions. On the next day, in the morning, the Applicant's mother inquired with her as to whether the Applicant had sexually assaulted her to which the victim disclosed the above facts to her. The day after that, i.e. on 07.05.2019, the Applicant dropped the victim at the residence of her grandmother. The victim narrated the incident to her grandmother. The victim continued staying at the residence of her grandmother. On 16.05.2019, she came to know that her sister (wife of the Applicant) died by consuming poison since she was told by the mother of the Applicant that he had sexually assaulted the victim. On 22.05.2019, she along with her grandmother went to the house of one Gorakh Baravkar where she met her other relatives including her paternal aunt Chhaya. At that time she narrated the incident of rape by the Applicant to Chhaya. On the very next day, i.e. 23.05.2019, she along with her grandmother, paternal aunt Chaya and other relatives came to Baramati Police Station and lodged a report which was reduced to writing and registered as FIR No. 468 of 2019. On 24.05.2019, she was examined by the medical officer at Women's Hospital, Baramati wherein she disclosed the incident of rape by the Applicant. On 28.05.2019, her statement was recorded u/s 164 of CrPC by JMFC, Baramati.

4. During the course of investigation, spot panchnama was drawn, victim's age certificate was obtained, statements of witnesses were

recorded, blood samples were sent for analysis. The Applicant was arrested on 27.05.2019. Investigation was concluded, chargesheet was filed. Case was committed to the Sessions Court. The Applicant pleaded not guilty and claimed to be tried. The prosecution examined seven witnesses. The defence of the Applicant was that of total denial and false implication.

5. Learned Counsel for the Applicant has submitted that the prosecution has deliberately not examined material witnesses who were crucial to establish the case against Applicant and hence an adverse inference ought to be drawn against the prosecution. He submitted that PW No. 4, the medical officer who has examined the victim girl has not deposed about any forcible sexual intercourse. Medical evidence also does not suggest any injuries in consonance with violent sexual intercourse. Laying much emphasis on the delay of 19 days in recording the FIR, which leads to an inference of false implication, the Ld. Counsel for the Applicant prayed for bail and suspension of sentence pending appeal.

6. Learned APP Ms. Shinde, countered the aforesaid submissions by submitting that it is trite law that the sole testimony of the victim ought to be believed if it inspires confidence and it is not necessary to seek corroboration of the same. The testimony of the victim in the present case does not suffer from any material infirmities and is therefore

credible. The delay in lodging the FIR has been explained by the prosecution. The Applicant being a close relative and considering the tender age of the victim, she could gather courage to approach the police only after conferring with her relatives and hence, the delay is not fatal to the prosecution case.

7. Ms. Mangla, Ld. Counsel appearing for Respondent No. 2 has adopted the submissions of the Ld. APP appearing for Respondent No. 1-State while opposing the application for suspension of sentence and bail.

8. This is a case where, a girl, aged 14 years was taken advantage of by her own relative i.e her brother in law, a person whom she had reposed her trust in. The incident of sexual assault has been narrated by the victim clearly and her cross examination thereon does not suffer from any inconsistencies. She has been consistent with her previous statement and her evidence has not been shattered under cross examination. Needless to add that in a case of rape, and more particularly, in the case of penetrative sexual assault under POCSO Act, the sole testimony of the victim, if found inspiring confidence, can be relied upon. The victim has disclosed the commission of the offence on the very next day to the mother of the Applicant and to her grandmother, immediately when she reached her place. Thus, she has reported the offence at the earliest possible opportunity to the adults in her family. The delay in lodging the report, which the Applicant has sought to assail has been explained

through the conduct of the victim girl. As a child who had undergone severe mental and physical trauma at the hands of her own relative, she could only be expected to inform the adults in her household. It was not unnatural for the adults in the house to confer with each other before mustering courage to approach the police against their own relative. The victim has no reason to falsely implicate the Applicant. The medical opinion although not suggestive of violent sexual intercourse, is in consonance with the possibility of penetrative sexual intercourse which is in tandem with the fact that the medical examination was conducted after a delay of 20 days. Although, the Applicant has taken a defence of false implication and examined the paternal aunt of the victim, her evidence is not sufficient at the *prima facie* stage to dislodge the testimony of the victim.

9. In the light of the aforesaid discussion, we find that this is not a fit case to grant bail to the Applicant and suspend his sentence pending Appeal. Consequently, the Application for bail and suspension of sentence is rejected and disposed of accordingly.

ASHISH S. CHAVAN, J.

BHARATI DANGRE, J.