

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.6978 OF 2014
IN
CRIMINAL APPEAL NO.764 OF 2014**

Jitendra S/o. Shankar Bhande,
Age-24 years, Occu-Labour,
R/o. Mahindale, Tq. & Dist. Dhule

..Appellant

Versus

The State of Maharashtra
Through Police Station Officer,
Dhule Taluka Police Station, Dhule
Taluka & Dist. Dhule

..Respondent

Mr. Paranjape Prakash S. Advocate for the applicant
Mrs. S.S. Raut, APP for the respondent/ State

**CORAM : A.V.NIRGUDE &
V.K.JADHAV, JJ.**

DATED : 28.10.2015

P.C. :-

1. The appellant was convicted for offence punishable under Section 302 of Indian Penal Code and was sentenced to suffer life imprisonment. He is now in jail.

2. After filing of the appeal first time a new defence is taken, it is stated that on the day of incidence the appellant was only 13 and half years old and therefore was juvenile offender and could not have been tried, etc.

3. This Court ordered on 06.08.2015 that Juvenile Justice Board constituted under Section 4 of the Juvenile Justice (Care and Protection of Children) Act, 2000 should cause enquiry to determine the age of appellant under Rule 12. Accordingly a report is produced before us which clearly mentioned a finding that on the day of incidence the appellant was only 13 $\frac{1}{2}$ years old. In view of this the first step we would take is to release the appellant on bail without even considering the merits of the case.

4. It is thereafter the appellant would be able to press the appeal. The substantive part of the sentence is suspended. The appellant be released on bail of Rs.5,000/-(Rs. Five Thousand) with one surety is like amount. The appellant should be furnished the bail bond in the Trial Court.

5. In view of this the application stands allowed accordingly and disposed of.

6. The parties shall act upon the authenticate copy.

[V.K.JADHAV, J.]

[A.V. NIRGUDE, J.]