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

**CRIMINAL APPLICATION NO.5869 OF 2016
IN
CRIMINAL REVISION APPLICATION NO.226 OF 2016**

Vishnu s/o Shravan Gaikwad

..APPLICANT

VERSUS

The State of Maharashtra

..RESPONDENT

Mr S.V. Natu, Advocate for applicant;

Mr C.V. Dharurkar, Addl. Public Prosecutor for respondent

CORAM : N.W. SAMBRE, J.

DATE : 25th October, 2016

ORAL ORDER :

The applicant-accused was convicted by Assistant Sessions Judge, Hingoli vide judgment and order dated 15th December, 2007 for offence punishable under section 363 of the Indian Penal Code and sentenced to suffer R.I. for one year and to pay fine of Rs.100/-, in default to suffer further R.I. for one month. He is also convicted for offence punishable under section 366-A of the Indian Penal Code and sentenced to suffer R.I. for three years and to pay fine of Rs.500/-, in default to suffer further R.I. for three months and for an offence punishable under section 376 of the Indian Penal Code and sentenced to suffer R.I. for seven years and to pay fine of Rs.1000/-, in default to suffer further R.I. for six months. He is further convicted for offence punishable under section 506 of the Indian Penal Code and sentenced to suffer R.I. for three months and to pay fine of Rs.100/-, in default to suffer S.I. for one month.

(2)

2. The said conviction and sentence is upheld by learned Additional Sessions Judge, Hingoli, vide judgment and order dated 7th September, 2016, passed in Criminal Appeal No.2 of 2008.

3. Mr Natu, learned Counsel appearing on behalf of the applicant would urge that no ossification test of the victim was conducted and medical evidence is accepted for the purpose of determining the age of the victim. According to him, there is no corroboration to the said fact, based on independent documentary evidence, as P.W.10 Meera, the Head Mistress, was unable to narrate as to the basis on which the entry of date of birth of the victim was taken in the school admission register. He would then urge that the mother and father of the victim, whose statements were recorded under section 161 of the Code of Criminal Procedure, were not examined.

4. In the above background, in my opinion, case for suspension of the substantive sentence and grant of bail is made out, as the applicant was on bail during the trial. I, therefore, pass following order :-

The substantive sentence shall stand suspended and the applicant be admitted to bail on the same terms on which he was released by the learned Trial Court on bail.

The applicant shall attend the court of the concerned Judicial Magistrate First Class at Hingoli once in every six months till conclusion of the revision application.

(3)

The applicant shall file private paper-book within a period of twelve weeks from today, failing which the revision shall stand dismissed, without further reference to the court.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

amj