

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1057 OF 2019
IN
CRIMINAL APPEAL NO.612 OF 2016**

Abhishek Sureshkumar Singh @ Harshu

.....Applicant/
Appellant

versus

The State of Maharashtra

.....Respondent

Mr. Aniket Vagal, advocate for the applicant/appellant.
Mr. J. P. Yagnik, APP for the State.

**CORAM : RANJIT MORE &
M. S. KARNIK, JJ.**

DATE : 11th NOVEMBER, 2019.

P. C. :

1. Heard learned counsel for the applicant and learned APP for the State.

2. On 16th July, 2019, this Court passed the following order in the above application :

“*Nobody appears for the appellant/original accused No.4.2.*

2. In letter dated 29/4/2019 he has claimed that he is born on 21/6/1994 and alleged offence is dated 8/2/2011. Thus he was below 17 years of age at that time.

3. He claims that he is in prison since 8 years, 2 months and while on furlough leave he obtained college leaving certificate and the certificate issued by Board of High School and Intermediate Education. He has annexed

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photo copy of the certificates issued by Board dated 30/5/2009 and in it 21/6/2014 appears as his date of birth.

4. *We therefore direct Registry to send a copy of Criminal Application 1057/2019 with a copy of said certificate to the Court of Sessions Judge, Greater Bombay which has decided Sessions Case No.436/2011 to hold inquiry in the matter and to submit a report within 4weeks after communication of this order to it.*

5. *List the matter for further consideration on 13/8/2019.”*

3. In pursuance of the said order, report dated 19th August, 2019, is submitted by the Principal Judge, City Civil and Sessions Court, Mumbai. Learned Principal Judge has opined that the character certificate issued by Saraswati Intermediate College, Naharpur-Gorakhpur appears to be false and fabricated since it was not issued by the said College. Learned Principal Judge has also opined that the copy of the High School Examination -2009 produced by the applicant seems to be not of any use as the concerned authorities informed that the appellant had not produced any documents showing his date of birth to 21st June, 1994. Learned Principal Judge ultimately opined that the date of birth viz. 21st June, 1994, as mentioned in both the documents produced by the appellant before this Court cannot be believed. Learned Principal Judge has also reported that the issue of date of birth of the applicant has already been decided by the Additional Chief Metropolitan Magistrate, 37th Court, Esplanade, Mumbai, at the time of hearing Notice No. 49/N/2011 and the said application came to be rejected by the said Court

by its order dated 4th May, 2011, on the basis of Ossification Test conducted by Resident Doctor of Department of Forensic Medicine at Sir. J. J. Hospital, Mumbai.

4. In the light of the above, we do not find any merit in the above petition. The same is, accordingly, dismissed.

5. The Registry is directed to communicate the order to the applicant.

[M. S. KARNIK, J.]

[RANJIT MORE, J.]