

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

**CRIMINAL APPLICATION NO. 487 OF 2020
IN
CRIMINAL APPEAL NO. 104 OF 2020**

Vikas Sahebrao Sable ... Applicant

Versus

The State of Maharashtra ... Respondent

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Mr. J. V. Deshpande, Advocate h/f Mr. B. N. Magar, Advocate for the applicant

Smt. Geeta L. Deshpande, APP for the respondent-State

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CORAM : R. G. AVACHAT, J.

DATED : 19th JUNE, 2021

PER COURT :-

. This is an application for suspension of substantive sentence of imprisonment passed vide judgment and order dated 28.11.2019, passed by the learned Special Judge, Beed in Special Case (POCSO) No.21 of 2017. The applicant has been convicted for the offence punishable under Sections 6 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for 10 years and fine of Rs.500/-, in default of payment of fine, he shall suffer simple imprisonment for 7 days and also convicted for the offence punishable under Section 363 of the

Indian Penal Code, 1860 and sentenced to suffer rigorous imprisonment for three years and fine of Rs.500/-, in default of payment of fine, the applicant shall suffer simple imprisonment for 7 days.

2. Heard. Perused the impugned judgment and the relevant evidence relied upon.

3. It appears to be a case of emotional involvement. The father of the victim testified that he had given the date of birth of the victim as 09.02.2002 for her admission in Anganwadi. While for admitting in first standard, he gave her date of birth as 04.09.2003. In his cross examination, he deposed that he is unable to give the date of birth of any of his three children. It is also in his evidence that the date of birth of the victim was not recorded in the record of Nagryachi Wadi Grampanchayat. The witness was examined in proof of entry in the Anganwadi record. The witness testified that said entry was made on the basis of entry in the birth register maintained by the Grampanchayat of Nagryachi Wadi. It is reiterated that the father of the victim has stated that her birth was not recorded in the register maintained with Nagryachi Wadi Grampanchayat. The Radiologist gave the age of the victim in between 19 – 20 years. The

applicant is 25 years of age. He has been behind the bars since 28.11.2019. The appeal is not likely to come up for hearing in near future.

4. In the aforesaid backdrop, it is desirable to grant the application.

5. The application is, therefore, allowed in terms of prayer clause (B).

6. Pending the appeal, the substantive sentence imposed by the trial Court is suspended. The applicant be released on bail on his executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with surety bond in the like amount.

7. Bail before the trial Court.

[R. G. AVACHAT, J.]

SMS