

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

**CRIMINAL APPLICATION NO. 900 OF 2021
IN
CRIMINAL APPEAL NO. 200 OF 2021**

Tukaram Dnyandev Kuduk

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....
Mr. S.J. Salunke, Advocate for applicant

Mrs. G.L. Deshpande, A.P.P. for respondent - State

....

**CORAM : R.G. AVACHAT, J.
DATED : 22nd JUNE, 2021**

PER COURT :

1. This is an application for suspension of substantive sentence of imprisonment passed by the learned Additional Sessions Judge, Beed in Special (POCSO) Case No. 40 of 2018 vide judgment and order dated 09th March, 2021. The applicant has been convicted for the offences punishable under Section 376(2)(l) of the Indian Penal Code (I.P.C.) and under Sections 4 and 6 of Protection of Children from Sexual Offences Act, 2012 (P.O.C.S.O.). The applicant is sentenced to suffer rigorous imprisonment for twenty years and to pay fine of Rs.20,000/-, in default to suffer simple imprisonment for six months for the offence punishable under Section 376(2)

(1) of the I.P.C. No separate sentence is inflicted upon the applicant for the offence punishable under Sections 4 and 6 of P.O.C.S.O. as Section 376(3) of the I.P.C. has been considered for punishment.

2. Heard. Issue notice to the respondent. Learned A.P.P. waives service of notice for respondent – State.

3. Learned counsel for the applicant took me through the relevant evidence and urged for suspension of execution of sentence of imprisonment.

4. Learned A.P.P. strongly opposed the application.

5. The applicant was on bail pending trial. The victim is differently abled (psychologically). She conceived. The DNA report is on record. It rules out the applicant to be biological father of the new born. The appeal is not likely to come up for final hearing in the near future. I am, therefore, inclined to allow the application as under :-

ORDER

(i) Criminal application is allowed in terms of prayer clauses (B) and (C).

(ii) Pending the appeal, the substantive sentence of imprisonment 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 one surety in the like amount.

(iii) Bail before the trial Court.

(R.G. AVACHAT, J.)

SSD