

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

**CRIMINAL APPLICATION NO. 1125 OF 2021
IN
CRIMINAL APPEAL NO.265 OF 2021**

Vikas Motiram Rathod	... Applicant
Versus	
The State of Maharashtra	... Respondent

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Mr. G. G. Kadam, Advocate for the applicant
Mr. S. W. Munde, APP for the respondent-State

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**CORAM : R. G. AVACHAT, J.
(VACATION COURT)**

DATED : 27th MAY, 2021

PER COURT :-

1. This application has been moved for suspension of the execution of the sentence passed vide judgment and order dated 07.04.2021, by the learned Judge, Special Court, Ambad, District Jalna in Special Case (Child) No.16/2021. The applicant has been convicted for the offence punishable under Section 363 of the I.P.C. and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.500/-, in default, to suffer simple imprisonment for three months vide Section 235(1) of the Cr.P.C. The applicant has been further convicted for the offence punishable under Section 354-A(i) of the I.P.C. and sentenced to suffer rigorous imprisonment

for three months and to pay fine of Rs.500/-, in default, he shall further suffer simple imprisonment for 15 days vide Section 235(1) of the Cr.P.C. He has been further convicted for the offence punishable under Section 366-A of the I.P.C. and sentenced to suffer rigorous imprisonment for one year and to pay fine of Rs.1,000/- , in default, he shall further suffer simple imprisonment for three months vide Section 235(1) of the Cr.P.C. The applicant has also been further convicted for the offence punishable under Section 376 of the I.P.C. and sentenced to suffer rigorous imprisonment for ten years and to pay fine of Rs.5,000/-, in default, to suffer simple imprisonment for one year vide Section 235(1) of Cr.P.C. The applicant has also been convicted for the offence punishable under Section 4 of the Protection of Children from Sexual Offences Act and sentenced to suffer rigorous imprisonment for ten years and to pay fine of Rs.5,000/-, in default, he shall further suffer simple imprisonment for one year vide Section 235(1) of Cr.P.C.

Substantive sentences of imprisonment are to run concurrently.

2. Heard.

Perused the impugned judgment and evidence of

material witnesses. The learned APP strongly opposed for grant of the application.

3. The applicant was on bail pending the trial. The victim claimed to have been 15 years of age when the offence took place. The applicant was around 19 years of age by then. It appears to be a case of emotional involvement. Their marriage ceremonies were performed. In proof of age of the victim, her school record was produced in evidence. It was proved on the strength of the evidence of the Head Master. The father of the victim was examined. He, however, did not give date of birth of his daughter (victim).

4. The appeal is of this year (2021). It will take a considerable time for the turn of this appeal to come up for hearing. It is, therefore, desirable to suspend the execution of the substantive sentence of imprisonment. Hence, I pass the following order.

ORDER

- (i) The application is allowed in terms of prayer clause [A].
- (ii) Pending the appeal, the substantive sentence imposed by the learned trial Court is suspended and 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.

(iii) Bail before the trial Court.

[R. G. AVACHAT, J.]

SMS