

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO. 1058 OF 2021
IN
CRIMINAL APPEAL NO. 743 OF 2021**

Vikas Shantaram Shinde Applicant
v/s.
The State of Maharashtra and anr. Respondents

Mr. Amit Mane for the Applicant.
Mr. S.V. Gavand, APP for the State.
Ms. Grishma Lad for Respondent No.2 (appointed).

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 20th DECEMBER, 2021.

P. C. :-

. This is an Application under section 389 of Cr.PC. filed by the aforesaid Applicant for suspension of substantive sentence imposed by judgment dated 09/10/2019 passed by the learned Judge, Special Court, Ratnagiri in Special Case No.4/2018.

2. By the impugned judgment, the learned Judge has held the Applicant guilty of offence under sections 376(2)(j)(n), 506 of the Indian Penal Code and under sections 4 and 6 of the Protection of Children from Sexual Offences (POCSO) Act, 2012 and sentenced to undergo rigorous imprisonment for ten years with fine of Rs.20,000/-

in default simple imprisonment for six months for offence under POCSO Act.

3. Heard Mr. Amit Mane, learned counsel for the Applicant, Mr. S.V. Gavand, learned APP for the State and Ms. Grishma Lad, learned counsel for Respondent No.2. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

4. The evidence on record prima facie reveals that the victim was about 13 years of age and was a child within the meaning of section 2(d) of POCSO Act. It is also on record that she was intellectually disabled. The evidence on record prima facie indicates that the Applicant herein had subjected her to repeated penetrative sexual assault. The medical evidence indicates that she had given birth to a male child and the DNA report also prima facie reveals that the Applicant is the biological father of the child.

5. The Applicant has committed offence against the child who was intellectually disabled. The offence is of serious nature. Considering the nature of the offence as well as the evidence in support thereof and

keeping in mind the societal interest, in my considered view, this is not a fit case for suspension of substantive sentence. Hence, the Interim Application is dismissed.

**PREETI
H JAYANI**

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(SMT. ANUJA PRABHUDESSAI, J.)