

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

910 CRIMINAL APPLICATION NO.1163 OF 2020
IN APEAL/215/2022

LAHU DEORAM PAWAR

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. S.S. Londhe, Advocate for the applicant

Mr. R.V. Dasalkar, APP for respondent No.1

Mr. U.S. Patil, Advocate (appointed) for respondent No.2

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CORAM : SMT. VIBHA KANKANWADI AND
RAJESH S. PATIL, JJ.

DATE : 14th SEPTEMBER, 2022

PER COURT :

1 Heard learned Advocate appearing for the applicant as well as learned APP.

2 Present application has been filed for suspension of substantive sentence imposed by the learned Additional Sessions Judge/Special Judge under POCSO Act, Ahmednagar in Special Case No.245/2017. By Judgment and order dated 25.01.2019 the appellant has been sentenced thus –

“1) The accused Lahu Deoram Pawar is hereby convicted vide Section 235(2) of Cr.P.C. for the offence under Section 5 punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012, and is sentenced to suffer imprisonment for life and to pay fine of Rs.50,000/- (Rupees Fifty Thousand only). In default of payment of fine accused to suffer further rigorous imprisonment for five months.

2) The accused is hereby convicted vide Section 235(2) of Cr.P.C. for the offence punishable under Section 363 of I.P.C. and is sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.10,000/- (Rupees Ten Thousand only). In default of payment of fine to suffer further simple imprisonment for two months.

3) The accused is hereby convicted vide Section 235(2) of Cr.P.C. for the offence under Section 376(2)(f), 376-E of I.P.C., however, no separate sentence has been passed as accused has been sentenced for the similar offence under Section 5 punishable under Section 6 of the Protection of Children from Sexual Offences Act, 2012.”

3 The copies of depositions as well as the necessary documents i.e. Medical Certificate, C.A. Report, Spot Panchnama, First Information Report etc. have been produced. Perusal of the said evidence it appears that there is prima facie evidence which was considered by the learned Special Judge. Another aspect, that is, to be considered is that the appellant was previously

convicted for the similar offence and in spite of undergoing the sentence there is no change in his behaviour. In fact, additional charge was also framed against him for the said previous offence and, therefore, the conviction has been awarded in this case under Section 5(i)(m)(t) punishable under Section 6 of the Protection of Children from Sexual Offences Act also. When such heinous crime is stated to be committed as well as the fact is that he was not released on bail throughout the trial, no case is made out for suspension of sentence. Application stands rejected.

(Rajesh S. Patil, J.)

(Smt. Vibha Kankanwadi, J.)

agd