

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

**CRIMINAL APPLICATION NO. 1311 OF 2021
IN
CRIMINAL APPEAL NO. 308 OF 2021**

1. Vinod Rohidas Pawar
2. ----
3. Kavita Vijay Chavan ... Applicants

Versus

The State of Maharashtra
Through Police Station Kannad (City),
District Aurangabad ... Respondent

....
Mr. P. D. Bachate, Advocate for applicants
Mr. R. B. Bagul, APP for respondent - State

....

**WITH
CRIMINAL APPLICATION NO. 1220 OF 2021
IN
CRIMINAL APPEAL NO. 294 OF 2021**

Shaikh Najim s/o Shaikh Ajim ... Applicant

Versus

The State of Maharashtra and another ... Respondents

....
Mr. S. N. Lute, Advocate for applicants
Mr. R. B. Bagul, APP for respondent No.1-State
Mr. P. D. Patil, Advocate for respondent No.2

....

CORAM : R. G. AVACHAT, J.

DATED : 28th JANUARY, 2022

PER COURT :-

. The applicant Vinod has been convicted for the offence punishable under Section 376(2)(j)(n) of Indian Penal Code and under Sections 4, 6 and 8 of Protection of Children from Sexual Offences (POCSO) Act and sentenced to suffer rigorous imprisonment for twenty years and fine of Rs.10,000/-, in default to suffer simple imprisonment for two months.

2. The applicant Kavita and Shaikh Najim have been convicted for the offence punishable under Section 17 of the POCSO Act and sentenced to suffer rigorous imprisonment for twenty years and fine of Rs.30,000/- each, in default to suffer simple imprisonment for six months.

3. In short, the case of the prosecution is that the applicant Kavita is the mother of the victim. Applicant Najim acted as a go-between. At the relevant time, the victim was minor. Her mother Kavita wanted to give her in marriage to applicant Vinod. With the efforts of well wishers the police could prevent the marriage. It is the case of prosecution that both, mother of the victim and applicant

Najim, forced the victim to cohabit with applicant Vinod. Both of them, therefore, stayed together. During the stay, there has been sexual intercourse.

4. It appears that, pending the trial, the applicants have been in jail since July 2017.

5. Both, the victim and the applicant Vinod, have filed the joint affidavit. The same is taken on record. Their parents are also present before the Court, except the mother.

6. The victim so-motu appeared before this Court. She submitted to have come to get her mother released on bail. She also submitted that she has stayed with the applicant Vinod as his wife for about three months. She also expressed desire to continue to cohabit with Vinod as his wife. She submitted that she is now 21 years of age and can take decision on her own. The applicant Vinod was also produced from jail. He too expressed desire to maintain the victim as his wife. Be that as it may.

7. Considering the fact that the applicants have been behind the bars from July, 2017. The appeal is not likely to come up

for hearing in near future and in view of the subsequent developments this Court is inclined to allow the applications.

8. In the fitness of things the execution of substantive sentence of imprisonment to stand suspended pending the appeals. The applicants be released on their executing P. R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) each with surety bond each in the like amount.

9. The applications stand disposed of.

[R. G. AVACHAT, J.]

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