

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

**CRIMINAL APPLICATION NO.73 OF 2022
IN APEAL/81/2021**

**KAMLAKAR LAXMAN DHASAL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

...
Mr. G.R. Ingole, Advocate h/f Mr. S.G. Bobade, Advocate for
Applicant
Ms. R.P. Gour, APP for Respondents – State
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 22nd FEBRUARY, 2023

PER COURT :

1. By this application applicant seeks suspension of his substantive sentence of imprisonment of 10 years imposed on him by learned Additional Sessions Judge-3, Jalna, in Special Case (POCSO) No.19/2016, by judgment and order dated 17/02/2020.
2. Applicant is convicted for offence punishable under section 376(2)(j) of the Indian Penal Code and is sentenced to suffer rigorous imprisonment of 10 years and to pay fine of Rs.25,000/- and under section 2(v) of the the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 and is sentenced to suffer rigorous imprisonment of 10 years and to pay fine of Rs.10,000/-.
3. The appeal is filed on 12/02/2021. Along with appeal,

Criminal Application No.434/2021 was filed for suspension of substantive sentence of imprisonment and bail. This Court, after hearing the application on merits, since was not inclined to suspend the substantive sentence and grant bail to the applicant, by order dated 08/07/2021, permitted the applicant to withdraw the application and disposed of the same as withdrawn.

4. Mr. G.R. Ingole, learned advocate h/f Mr. S.G. Bobade, learned advocate for applicant submits that certain aspects were not brought to the notice of this Court, when that application was argued on merits. Medical evidence was not pointed out to this Court. On query by this Court, he submits that the change in circumstance is that the children of applicant are taking education and he has old aged mother.

5. That cannot be said to be a change in circumstance. Since this Court has considered the application filed by applicant on merit and was not inclined to grant bail, it was withdrawn, hence it was not appropriate on the part of applicant to move present application. The application is, therefore, rejected.

(NITIN B. SURYAWANSHI, J.)