

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

**CRIMINAL APPLICATION NO.329 OF 2023 IN
CRIMINAL APPEAL NO.55 OF 2023**

Nitin Ashok alias Punjaram Mhaske ... **APPLICANT**

VERSUS

The State of Maharashtra & anr. ... **RESPONDENT**

.....
Mr. S.G. Bobde, Advocate for applicant
Mr. A.S. Shinde, A.P.P. for respondent No.1.
Mrs. A.D. Patil, Advocate for respondent No.2 (appointed)

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CORAM : R.G. AVACHAT, J.

DATE : 30th MARCH, 2023

PER COURT :

Heard. The applicant has been convicted for the offence punishable under Sections 376(2)(n) of the Indian Penal Code and Sections 3(a) read with 4, 5(j)(ii) read with 6, 5(n) read with 6 and 8 of the Protection of Children from Sexual Offences Act and, therefore, sentenced to suffer rigorous imprisonment for seven years, ten years, ten years and three years respectively and fine with default stipulation. All the sentences have been directed to run concurrently. As such, the maximum sentence of imprisonment the applicant is supposed

to undergo is ten years.

2. Pending trial the applicant was on bail. From the date of arrest till date, the applicant is behind bars for more than six months. It will take time for the appeal to come up for hearing. At the relevant time, the victim was little over 16 years of age. It is true, she conceived and even delivered a baby. The D.N.A. report indicates the applicant to be the biological father of the new born. The fact is that, the applicant was just 22 years of age at the relevant time. It was emotional relationship. The F.I.R. was lodged only after it was disclosed that the victim had conceived. The appeal filed by the appellant is admitted by this Court. Therefore, the Court is inclined to suspend the execution of execution of the substantive sentences pending the appeal. Hence the order :

ORDER

(i) The application is allowed.

(ii) Pending the appeal, the execution of the substantive sentences of of imprisonment imposed upon the applicant by learned Special Judge (POCSO Act), Aurangabad by judgment

and order dated 14/12/2022 passed in Special Case No.55/2019 to stand 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 one surety in the like amount.

(R.G. AVACHAT, J.)

fmp/-