

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

**948 CRIMINAL APPLICATION NO.1207 OF 2023
IN APEAL/280/2023**

Mahesh Prabhakar Chachar, ...Applicant

VERSUS

1. The State of Maharashtra

2. X.Y.Z. ...Respondents

...
Advocate for Applicant : Mr.Girase Amarjitsing B.
APP for Respondent-State : Mr.K.N.Lokhande
Advocate for Respondent No. 2 : Mr.Gaikwad Rahul Malhari
(appointed)
...

**CORAM : R. G. AVACHAT, J.
DATE : 20.04.2023.**

PER COURT :

1. Heard.

2. This is an application for suspension of execution of substantive sentence of imprisonment.

3. The applicant was prosecuted for the offence punishable under Section 376(2)(b)(d)(i)(n), 354A, 354B, of the Indian Penal Code, Section 5(d) punishable under Sections 6, Section 7 punishable under Section 8 of the Protection of

Children from Sexual Offences Act and an offence punishable under Section 3(1)(w)(i), 3(1)(w)(ii), 3(2) (5), 3(2)(5A) of the Scheduled Castes and Scheduled (Prevention of Atrocities) Act. He has however, been convicted for the offence punishable under Section 354A and 354B and Section 506 of the Indian Penal Code and an offence punishable under Sections 7 punishable under Section 8 and Section 9 punishable under Section 10 of the Protection of Children from Sexual Offences Act, (for short ("the POCSO Act).

4. The State has not preferred an appeal against the applicant's acquittal of offence of rape.

5. Both learned APP for the Respondent State and the learned Advocate representing the victim would submit that it was a Residential Ashram School. The applicant was serving as a Warden. There are no words to condemn his acts, who was supposed to be a guardian, made his own ward pray to his lust. The evidence of the victim was adverted to suggest as to how the applicant on about 4 to 5 occasions fondled her breast and touched private part during night time.

6. The applicant has been convicted for the offence of having fondled the breast of the victim, touched her private part many a times and therefore, sentenced to suffer rigorous imprisonment for 7 years. Pending the trial, the applicant was not on bail. He is in jail for little over 3 years and 3 months i.e. close to half of the term of sentence imposed against him. The appeal is of this year i.e. 2023. The same is not likely to come up for hearing in the near future. In view of the same, the application is allowed in terms of the following order :

ORDER

- (a) The application is allowed.
- (b) Pending the appeal, the execution of substantive sentences of imprisonment imposed upon the applicant by the learned Special Judge under (POCSO) Act, Ahmednagar, in Special Case No. 74 of 2020, by the judgment and order dated 17.03.2023 to stand suspended. 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.
- (c) The application is allowed and disposed of.
- (d) The fees of learned Advocate appointed to represent respondent No. 2 is quantified for Rs. 8,000/- (Rs. Eight Thousand Only).

(R. G. AVACHAT)
JUDGE