

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

CRIMINAL APPLICATION NO. 1255 OF 2023

IN

CRIMINAL APPEAL NO. 578 OF 2022

Firoz Chand Mulani

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. R.R. Karpe, Advocate for applicant

Mr. N.T. Bhagat, A.P.P. for respondent no.1 – State

Mr. M.B. Sandanshiv, Advocate for respondent no.2

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CORAM : R.G. AVACHAT, J.

DATE : 05th APRIL, 2023

PER COURT :

1. Heard.

2. Issue notice to the respondents. Learned A.P.P. waives service of notice for Respondent no.1 – State and Mr. Sandanshiv, learned counsel for Respondent No.2.

3. The applicant has been convicted for the offence punishable under Sections 363 and 376(2)(j)(n) of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three years and ten years respectively and to pay fine of Rs.1,000/- and Rs.5,000/- respectively, in default, to suffer simple imprisonment for one month and three months respectively. The

applicant has further been convicted for the offence punishable under Section 5(l) read with Section 6 of Protection of Children from Sexual Offences Act and sentenced to suffer rigorous imprisonment for twenty years and to pay fine of Rs.5,000/-, in default, to suffer simple imprisonment for three months.

4. It was a consensual relationship. At the relevant time the applicant was twenty-two years of age while the victim was little over sixteen years. The applicant is in jail close to two years. The appeal is not likely to be heard in near future. Learned counsel for the victim has no objection to grant the application. Grand-mother of the victim, at whose instance the crime was registered, has filed an affidavit consenting to grant the applicant relief.

5. Since it was a consensual relationship and both, the applicant and the victim were in the age group of 16-20 years at the relevant time and the appeal is not likely to come up for final hearing in near future, the execution of substantive sentence of imprisonment to stand suspended, pending the appeal. The applicant be released on his executing P.R. bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

6. Criminal application stands disposed of accordingly.

(R.G. AVACHAT, J.)

SSD