

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

**CRIMINAL APPLICATION NO. 1656 OF 2021
IN
CRIMINAL APPEAL NO. 375 OF 2021**

Lav @ Rahul Bhagwan Chandane ..APPLICANT

VERSUS

State of Maharashtra and Another ..RESPONDENTS

....

Mr. S.S. Bora, Advocate for applicant
Mr. K.N. Lokhande, A.P.P. for respondent no.1 – State
Mr. A.V. Thombre, Advocate for respondent no.2

....

**CORAM : R.G. AVACHAT, J.
DATE : 05th APRIL, 2023**

PER COURT :

1. Heard.

2. The applicant has been convicted for the offence punishable under Section 4 of Protection of Children from Sexual Offences Act ('POCSO') and sentenced to suffer rigorous imprisonment for twenty years and to pay fine of Rs.10,000/-, in default, to suffer rigorous imprisonment for six months. The applicant has further been convicted for the offence punishable under Section 506 of the Indian Penal Code ('I.P.C.') and sentenced to suffer rigorous imprisonment for six months and to pay fine of Rs.1,000/-, in default, to suffer rigorous imprisonment for one month. The applicant has also been

convicted for the offence punishable under Section 376(2)(f) of the I.P.C. however, in view of provision of Section 42 of the POCSO Act, no separate sentence is awarded for this offence.

3. Learned counsel for the victim and learned A.P.P. have strong reservation to grant the applicant relief. According to them, D.N.A. report suggests the applicant to be the biological father of the new born. It was also submitted that when the meeting of both the families was held, the applicant even disowned responsibility of the new born child. According to learned counsel, the sentence of rigorous imprisonment for twenty years is a minimum sentence for the offence proved against the applicant. They would further submit that evidence on record would undoubtedly lead dismissal of the appeal against conviction. They even urged for early hearing of the appeal.

4. True, the applicant is held to be the biological father of the new born. The facts are that the applicant, at the relevant time, was eighteen years of age and the victim was little over fifteen years. On one day they came together. The applicant is alleged to have promised to marry her. She, therefore, submitted herself to his sexual lust. She thereby conceived. After having realised pregnancy, the F.I.R. came to be lodged. Both, the applicant and the victim were of same caste. Possibility of marriage was therefore, explored but it was found that the victim has now been married.

5. Fine amount is deposited. Since the applicant at the relevant time was of just eighteen years of age and he has been in jail for little over three years and the fact that the appeal is not likely to come up for hearing in immediate 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