

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

**CRIMINAL APPLICATION NO. 1716 OF 2021
IN
CRIMINAL APPEAL NO. 478 OF 2021**

Vikas Madan Devkate

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....

Mr. G.N. Chincholkar, Advocate for applicant (appointed)

Mr. R.G. Hange, Advo for applicant

Mr. K.N. Lokhande, A.P.P. for respondent – State

Mrs. Vanita Sangole, Advocate for victim (appointed)

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CORAM : R.G. AVACHAT, J.

DATE : 12th APRIL, 2023

PER COURT :

1. Heard.
2. Issue notice to the respondent. Learned A.P.P. waives service of notice for the respondent – State.
3. The applicant has been convicted for the offence punishable under Section 376(2)(i) of the Indian Penal Code and sentenced to suffer twelve years imprisonment and to pay fine of Rs.2,000/-, in default, to suffer rigorous imprisonment for three months. The applicant has further been convicted for the offences punishable under Section 506 of the Indian Penal

Code and Sections 4 and 8 of Protection of Children from Sexual Offences Act, 2012, but no separate punishment is awarded.

4. Learned A.P.P. and learned counsel appointed to represent the victim have strong reservation for grant of suspension of sentence on the ground of seriousness of offence.

5. At the relevant time the applicant was twenty-one years of age, while the victim was little over fifteen years. It appears to be a case of consensual relationship. The applicant has been in jail for little over five year and eight months as against sentence of twelve years. The appeal is of the year 2021. Same is not likely to be heard in near future by its turn. The fine amount has been deposited.

6. In the aforesaid backdrop, even if there being strong objection by learned A.P.P. and learned counsel appointed to represent the victim, 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.

7. High Court Legal Aid Sub-Committee, Aurangabad, who appointed Mr. G.N. Chincholkar and Mrs. Vanita Sangole, learned counsel, to represent

applicant and victim respectively, shall pay them Rs.7,000/- (Rupees Seven Thousand) respectively towards their fees.

(R.G. AVACHAT, J.)

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