

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

**CRIMINAL APPLICATION NO.2814 OF 2022
IN APEAL/619/2022**

**RAVI ASARAM DARADE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Mr. Chaitanya C. Deshpande, Advocate for Appellant
Mrs. R. P. Gour, APP for Respondent – State
Mr. R. B. Narwade, Advocate for Respondent No.2 (Appointed)

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CORAM : NITIN B. SURYAWANSHI, J.

DATE : 15th FEBRUARY, 2023

PER COURT :

1. Applicant is convicted by the learned Special Judge (POCSO Act), Aurangabad, under section 4 of the Protection of Children From Sexual Offences Act, in Special Case No.290/2021 and is sentenced to suffer rigorous imprisonment for ten years. By this application, applicant seeks suspension of his substantive sentence of imprisonment.

2. Heard learned advocate for applicant, learned Additional Public Prosecutor for State and learned advocate for respondent No.2. Perused the documents placed on record.

3. Perusal of record shows that two statements of the victim under section 164 of Cr.P.C. were recorded. In first statement, she has stated that accused outraged her modesty. In

second statement she has stated that she was repeatedly raped by her father, uncle and grandfather.

In her examination-in-chief, though she has stated that applicant ravished her, however, in her cross-examination she has admitted that she has given statement to the police and in the Court as per say of her mother and accused No.2. She has further admitted that in her statement to the police and in the Court she has not stated that accused No.1 (present applicant) had inserted his male genitals in her vagina. In the history given to the Medical Officer at the time of medical examination, she has narrated that she was ravished by her father, uncle and grandfather. She has also stated that applicant has ravished her.

4. Taking into consideration the inconsistencies in the prosecution evidence, applicant has good case on merits and has fair chances of succeeding in appeal. The appeal is not likely to be heard in near future. By this time applicant has undergone approximately one and a half years of imprisonment. Applicant claims to be permanent resident of Aurangabad and he is not likely to abscond during bail. Therefore, applicant has made out case for suspension of substantive sentence imposed on him.

5. In the result, application is allowed. Substantive sentence of imprisonment of the applicant is hereby suspended.

Applicant be released on executing Personal Bond of Rs.15,000/-, with one surety in the like amount.

6. Applicant shall furnish his residential address and cell phone number to the concerned police station and shall attend the concerned police station on every Sunday between 10:00 a.m. to 12:00 noon.

7. Fees of the learned advocate appointed to represent respondent No.2 is quantified at Rs.2,500/-. The High Court Legal Services, Sub-Committee, Aurangabad, to pay the same within a period of four weeks from today.

(NITIN B. SURYAWANSHI, J.)