

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

**CRIMINAL APPLICATION NO. 3205 OF 2022
IN
CRIMINAL APPEAL NO. 695 OF 2022**

Hiraman Sambha Tikhole

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. S.E. Shekade, Advocate for applicant

Mr. A.S. Shinde, A.P.P. for respondent no.1 - State

Mr. A.V. Lavte, Advocate for respondent no.2

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CORAM : R.G. AVACHAT, J.

DATED : 14th MARCH, 2023

PER COURT :

1. Heard.

2. The applicant has been convicted for the offences punishable under Sections 3(a), 4(2), 5(j)(ii), 7 and 11 of Protection of Children from Sexual Offences Act and suffered maximum rigorous imprisonment for twenty years. He is behind the bars for little over two years.

3. According to learned counsel for the applicant, the victim and her mother did not support the prosecution. Learned A.P.P. does not dispute this position. He however, submits that the victim was confronted with her

statement under Section 164 of Code of Criminal Procedure. The victim admitted to have made such statement before the Magistrate. It however appears that the contents of statement under Section 164 have not been deposed by the victim either in her examination-in-chief or during cross-examination undertaken by learned A.P.P.

4. Learned A.P.P. relies on the D.N.A. report to suggest the applicant was the biological father of the fetus. The victim is represented by an advocate. The victim has no objection to suspend the substantive sentence of imprisonment. The fine amount has been deposited.

5. Considering the quantum of sentence and the fact that 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.

(R.G. AVACHAT, J.)

SSD