

BIN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 3484 OF 2022
IN
CRIMINAL APPEAL NO.768 OF 2022

Akash Baban Shirsath Applicant
Versus
The State of Maharashtra
and another Respondents

.....
Mr. Rahul P. Mote, Advocate for the Appellant
Mr. V.S. Badakh, APP for Respondent No.1 – State
.....

[CORAM : NITIN B. SURYAWANSHI, J.]

DATE : 17th JANUARY, 2023

ORDER :

1. The applicant seeks suspension sentence awarded by learned Special Judge, Ahmednagar under Protection of Children from Sexual Offences (POCSO) Act, in Sessions Case No.410 of 2016.
2. The applicant is convicted for the offence punishable under section 376(2)(n) of the Indian Penal Code and section 4 of the Children from Sexual Offences (POCSO) Act, and sentenced to suffer rigorous imprisonment for 10 years and to pay fine of Rs.20,000/-.
3. Heard the learned advocate for the applicant and learned Additional Public Prosecutor for respondent No.1 – State. Perused the notes of evidence placed on record.

4. Learned advocate for the applicant has urged that there is 7 days delay in lodging FIR and the evidence of victim shows consensual relationship. The age is also not properly proved by the prosecution. Therefore, conviction of the applicant is unsustainable.

5. At this stage, it would be possible to fully appreciate the evidence on record.

6. *Prima facie*, there appears sufficient material on record to sustain conviction in the present case, and in that view of the matter, the application is rejected.

7. Hearing of the appeal is expedited.

[NITIN B. SURYAWANSHI]
JUDGE

S.P Rane