



IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

905 CRIMINAL APPLICATION NO. 3455 OF 2023

ASHOK BALI @ BALIRAM GHULE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Kishor R. Doke & Mr. S. K. Doke.

APP for Respondent/State : Ms. R. R. Tandale.

Advocate for Respondent No.2 : Mr. Rahul Ashok Shinde.

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CORAM : **R. G. AVACHAT and
SANJAY A. DESHMUKH, JJ.**

DATE : 19th December, 2023.

Per Court:

. Heard.

2 It is an offence punishable under Section 376 of the Indian Penal Code and Sections 4, 6 and 8 of the POCSO Act.

3 The victim, who is little over 17 years of age and her father, as well, have filed affidavit giving express consent to allow this application. The parties are related. What influenced us to allow the present application, is the DNA report, which is now placed on record. The victim underwent abortion. The fetus was subjected to DNA profiling. The DNA report has now been placed on record. The report excludes the applicant to be the biological father of the fetus.

4 The learned APP relied on the judgment of the Allahabad High Court in case of *Pravin Kumar Singh and others Vs. State of U.P. Thru. Prin. Secy. Home Deptt. and another, 2023 SCC OnLine 131*, to submit that the offence punishable under the POCSO Act, cannot be allowed to be compromised.

5 We would have conceded to the submissions made by the learned APP. However, since the DNA report rules out the involvement of the applicant in the crime in question, we allow the application in terms of prayer clause (B), subject to costs of Rs.15,000/- (Rupees Fifteen Thousand Only) to be paid to the High Court Legal Services Sub-Committee, Aurangabad, within two week.

[SANJAY A. DESHMUKH, J.]

[R. G. AVACHAT, J.]

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