

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

**953 CRIMINAL APPLICATION NO.3976 OF 2022
IN APEAL/904/2022**

**LAKHAN @ VIJAY RAMESH GAIKWAD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER**

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Advocate for Applicant : Mr.Patil (Borse) Paresh B.
APP for Respondent No.1-State : Mr.K.N.Lokhande
Advocate for Respondent No. 2 Informant : Mr.Tambe Rahul A.

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**CORAM : R. G. AVACHAT, J.
DATE : 28.04.2023.**

PER COURT :

1. Heard.

2. The applicant has been convicted for the offences punishable under Sections 363, 366-A of the Indian Penal Code and Sections 4, 6, 8 and 12 of the Protection of Children From Sexual Offences Act (for short "POCSO Act") and sentenced to suffer maximum term of imprisonment of 20 years under Section 6 of the POCSO Act. Pending the trial, the applicant was on bail. Reading of the evidence indicates that both, applicant and victim were emotionally involved. Both of them eloped and stayed together for not less than four months. It is only after intervention of police and parents, both of them came to be separated. Parents of the victim had earlier proposed her marriage with one Samadhan Pardeshi. The

victim was opposed to the said proposal. After having found the victim, she refused to submit to the medical screening. At the relevant time, the applicant was 23 years of age and the victim was 17 years of age. Since the victim herself had eloped with the applicant, it is doubtful as to how the conviction for the offence of kidnapping/abduction can sustain. So far as conviction for rape or penetrative sexual intercourse is concerned, the victim did not submit for medical examination. In view of the same, following order :

ORDER

- (a) The application is allowed.
- (b) Pending the appeal, the execution of the substantive sentence of imprisonment imposed upon the applicant by the learned Additional Sessions Judge (Fast Track Special Court), Jalgaon, District Jalgaon, in Special (POCSO) Case No. 42 of 2018, by the judgment and order dated 09.11.2022 to stand suspended and the applicant be released on bail on his executing P.R. bond of in the sum of Rs. 15,000/- (Rs. Fifteen Thousand Only) with one surety in the like amount on following condition :-
 - (i) The applicant shall not try to contact the victim, who is reported to be married.

(R. G. AVACHAT)
JUDGE

mahajansb/