



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.1844 OF 2023
IN
CRIMINAL APPEAL NO.1032 OF 2023**

Rakesh Hiranman Chavan ... Petitioners
Versus
The State of Maharashtra
And Another ... Respondents

Mr. Shailesh Kharat a/w Mr. Nagesh Khedkar, Mr. Aniket Thorat i/b
Mangesh Khedkar for the Applicant.

Mrs. M.H. Mhatre, APP for Respondent No.1-State.

Ms. Keral Mehta for Respondent No.2 (Appointed Advocate)

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 6 NOVEMBER 2023

P.C.

. This is an application for suspension of sentence and grant of
bail during the pendency of the Criminal Appeal preferred by the
Applicant challenging the judgment and conviction.

2 The Applicant is convicted by the Special Judge, Pune in
Special Case Child Protection No.134 of 2016 under Sections 363 and
376 of the Indian Penal Code and Sections 4 and 6 of the Protection
of Children from Sexual Offences Act, 2012 and sentenced to suffer

rigorous imprisonment for 20 years and to pay a fine of Rs.2,000/-.

3 Heard learned Counsel for the Applicant, learned APP for Respondent No.1-State and learned Counsel for Respondent No.2.

4. Learned Counsel for Applicant/Appellant assailed conviction on various grounds. He submits that the evidence in respect of age of victim is inconsistent. There are various contradictions and omissions in the evidence of the prosecution. He further submits that considering the fact that the offence in question was committed in the year 2016, the trial court erred in awarding sentence of 20 years' imprisonment on Applicant. He submits that Applicant has undergone 8 years imprisonment by this time and, therefore, the sentence may be suspended.

5 Learned Counsel appearing for Respondent No.2 and learned APP for Respondent No.1-State, opposed the application contending that evidence of the victim is sufficient for conviction and prosecution has proved offence committed by the Applicant beyond reasonable doubt. They supported the impugned judgment and order of conviction.

6. *Prima facie* there appears substance in the submission of Applicant that the prosecution's evidence in respect of age of victim is inconsistent, the benefit of the same needs to be given to Applicant. Learned Counsel is justified in submitting that trial court could not have imposed sentence of 20 years of imprisonment, as offence had taken place in the year 2016 and the amendment providing 20 years imprisonment is introduced in the year 2019. Thus, at the most sentence of 10 years imprisonment could have been imposed on the Applicant. By this time, Applicant has undergone 8 years of sentence and his appeal is not likely to be heard in the near future. In this view of the matter, Applicant has made out a case for bail, during the pendency of his appeal. Hence, the following order :-

- (i) Interim Application is allowed.
- (ii) Substantive sentence of imprisonment imposed vide judgment and order dated 19 November 2021 Special Case Child Protection No.134 of 2016 is suspended during the pendency of the Appeal.
- (iii) Applicant-Rakesh Hiranman Chavan be released on bail on executing PR bond in the sum of Rs.15,000/- with

one surety in the like amount.

- (iv) Applicant-Rakesh Hiranman Chavan shall deposit fine amount, if not already deposited.
- (v) Applicant-Rakesh Hiranman Chavan shall attend the concerned police station once in a month on every 1st Sunday, until further orders.
- (vi) Applicant shall furnish his permanent address as well as present address to the concerned police station along with copies of his Aadhar Card and Cell number/s.
- (vii) Applicant shall not contact the victim or witnesses.

(NITIN B. SURYAWANSHI, J.)