



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

**CRIMINAL APPLICATION NO.557 OF 2024
IN
CRIMINAL APPEAL NO. 138 OF 2024**

Taku @ Sagar Dayanand Shinde,
Age: 27 years, Occu: Nil,
R/o. Deulgaon Ghat, Tq. Ashti,
Dist. Beed.

... Applicant

Versus

The State of Maharashtra
Through the Ambora Police Station,
Ashti, Tq. Ashi, Dist. Beed.

... Respondent.

....

Mr. Girish V. Wani, Advocate for Applicant.

Mr. N. B. Patil, APP for Respondent – State.

Mr. Rupesh A. Jaiswal, Advocate for Respondent No.2 (Appointed)

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CORAM : ABHAY S. WAGHWASE, J.

Dated : 18th September, 2024

PER COURT :-

1. This application is an offshoot of judgment and order of conviction rendered by learned Special Judge (POCSO), Beed dated 27.03.2023 in Special POCSO Case No.74 of 2021 with prayers for suspension of sentence and grant of bail on account of above conviction.

2. In support of relief, learned counsel for applicant pointed out that, there is false implication. That, there is no convincing evidence.

That, victim child even after alleged incident played with her friends. That, conviction is for 20 years. That, FIR is by mother on some alleged narration of victim child. That, applicant was on bail during trial. That, there is a good case on merits. As appeal would take long time to be heard and decided, above relief is pressed into service.

3. Strongly opposing the above relief, learned APP pointed out that, victim is barely 9 years of age. That, there are allegations of indulging in unnatural offence. That, victim has promptly reported the incident. That, on prompt examination, there is evidence of sexual assault. Therefore, serious offence being committed, it is prayed that, relief as prayed may not be granted.

4. After considering the submissions of respective sides, considering the nature of prayer, at this stage necessary to merely visit the evidence of victim and medical evidence. Victim is examined as PW2. On visiting evidence of victim at Exh.35, it is emergent that, at relevant time, she studied in 3rd standard. On fateful day, she was playing with peers/friends. She has deposed that present applicant initially called her in his house on the pretext of reading a book. She has deposed that, when no one was there, he removed her garments and he put his place of urinal in her anus. She has also deposed that, after returning home,

finding her crying, her mother asked and she reported the act of accused to both mother and grandmother. Mother is examined as PW1. She has given date of birth of child as 04.02.2014. Apparently, therefore victim is a child falling in the definition of POCSO. In her evidence, she has clearly stated about the pervert act indulged into by applicant. Evidence of PW5 Dr. Sachin Solat, who examined victim same day, has noted bleeding injuries to said private part.

5. Therefore, taking such material into consideration, this court does not find it a fit case to extend any relief as prayed i.e. both suspension of sentence as well as grant of bail. Hence, the following order :-

ORDER

- (i) The criminal application stands rejected.
- (ii) Fees of learned Advocate, who is appointed to represent the cause of respondent no.2 to be paid by High Court Legal Services Sub-Committee, Aurangabad as per rules.

(ABHAY S. WAGHWASE, J.)