



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**CRIMINAL APPLICATION NO. 3683 OF 2023**

IN

**CRIMINAL APPEAL NO. 307 OF 2024**

Somnath Sadhu Birajdar

Age: 26 years, Occu: Driver, Now: Nil,

R/o. Ganeshwadi, Taluka Shirur Anantpal,

District Latur.

At present in Central Prison, Aurangabad.

... Applicant

Versus

1. The State of Maharashtra,  
Through Police Inspector,  
P.S. Shirur Anantpal.

2. ABC

... Respondents

.....

Mr. Chaitanya V. Dharurkar, Advocate for the Applicant.

Mrs. Chaitali Chaudhari Kutti, APP for Respondent No.1-State.

Mr. P. V. Gole h/f Mr. V. D. Gunale, Advocate for Respondent No.2.

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**CORAM : ABHAY S. WAGHWASE, J.**

**DATE : 18 OCTOBER 2024.**

**ORDER :**

1. Convict for offence punishable under Sections 376(2)(n) and Section 376(3) of the Indian Penal Code [IPC] as well as Section 4 r/w 3(a) and (c), Section 6 r/w 5(j)(ii)(l) of the Protection of Children from Sexual Offences Act and Section 452, 506 Part II of IPC, has put up prayers for suspension of sentence and grant of bail.

2. Learned counsel for the appellant pointed out that there is false implication due to some quarrel with father of victim. He submitted that victim did not report promptly. False allegations are levelled that by use of threat, there was forceful physical relation. That, only when her pregnancy was revealed, there was disclosure and applicant was named. There is no convincing evidence about forceful sexual act. Therefore, according to him, applicant has a good case on merits but the appeal being of 2023, would take long time to be heard and hence he prays for the relief of suspension of sentence and grant of bail.

3. Learned APP as well as learned counsel for the victim, both strongly opposed on the ground that serious offence has been committed. That, victim was barely 17 years of age. That, her age has been proved. Victim has deposed about forceful sexual relations. There are repeated acts and she has testified to that extent in her evidence. That, all prosecution witnesses have withstood the cross. Medical experts like PW10 confirmed rape as well as pregnancy and therefore, there being overwhelming evidence and offence being serious, relief as prayed is opposed.

4. After hearing submissions of both sides and on going through the papers, it seems that victim is examined as PW1. She has given her date of birth as 09.08.2005. It appears from her testimony that

she lost her mother and was living with step mother. Accused is her neighbour and she deposed that in February 2020, while she was sleeping, appellant came and expressed his love towards her and she alleges that, when she asked him to go, he threatened and had forcible physical relations. She has further deposed that 5 to 6 days thereafter, again he came at midnight and had forcible physical relations with her. This, she alleges, continued till April 2020. She seems to have conceived due to said physical relations. PW2 father, PW5 stepmother, PW6 Medical Officer who examined accused and collected necessary samples and also collected samples of blood of accused and victim for DNA, PW10 Doctor who conducted delivery and the foetus was said to be 26 to 28 weeks old. Therefore, apparently, here, there is overwhelming evidence. Victim aged 17 years has stated about multiple forceful sexual relations after entering her house at midnight. Considering the magnanimity of the incident, this Court is not inclined to grant relief as prayed. Hence, the following order :

### **ORDER**

The application is rejected.

**[ABHAY S. WAGHWASE, J.]**