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|-----------------------------|-----|-------------|
| Prasad Balu Kute            | ... | Appellant   |
| V/s.                        |     |             |
| State of Maharashtra & Anr. | ... | Respondents |

**CORAM : KISHORE C. SANT, J.**

PC:

1. Heard learned advocate for the applicant and learned APP for the State.
2. This application is filed seeking suspension of sentence and release of the applicant on bail. Sentence awarded by learned Special Judge under POCSO Act, City Civil and Sessions Court, Greater Mumbai in POCSO Special Case No. 511 of 2019. By way of order dated 17<sup>th</sup> October 2023. The applicant is held guilty of the offences punishable under Section 6 of POCSO Act, 2012 read with section

376(2) of the IPC, 1860. He is directed to undergo RI for 10 years and to pay fine of Rs. 10,000/- in default, further S.I for 1 month.

3. It is argued by learned learned advocate for the applicant that it is a clear case for grant of bail. The applicant and the victim were having friendly relations and the relationship is consensual relationship, due to which she became pregnant. He further submits that the relationship is only by consent, the victim girl has not filed any complaint immediately. The complaint is lodged only when the mother of the victim noticed that the victim has missed her menstrual cycle and at that time victim was examined. She was found pregnant of 6 months. He thus submits that till that time victim had not made any complaint nor disclosed the incident to anyone. He thus prays for allowing the application.

4. Learned APP vehemently opposes the application stating that at the time of alleged incident the age of the victim was hardly 13 years and 9 months. He submits that looking to the age of the victim, consent of the victim cannot be said to be a consent. Other evidence shows that the accused-applicant has committed forcible sex with a victim.

5. This Court *prima facie* seen that evidence of the witnesses

though they appears to be her consensual relations still looking to the fact that victim was hardly 13 years and 9 months of the age, this Court is not inclined to allow the application. The application is, therefore, dismissed and is disposed of.

6. Applicant is at liberty to move for early hearing of the appeal after R and P is received and paper-book is prepared.

**(KISHORE C. SANT, J)**