

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1756 OF 2023
IN
CRIMINAL APPEAL NO.550 OF 2023

Santosh Laxman Chavan : Applicant
Vs.
The State of Maharashtra And Anr. : Respondents

Adv. I. K. Tripathi i/by C. K. Tripathi, for the Applicant.
Mr. A. R. Patil, APP for the State.
Adv. Akshay R. Kapadia, for the Respondent No.2.

CORAM : KISHORE C. SANT, J.

DATE : 14TH FEBRUARY, 2024

PC. :

1. Heard the parties.
2. This Application was argued on 31st January, 2024. The main ground on which the suspension was age of the prosecutrix. It was stated that, her date of birth is 5th February, 2001. The incident had taken place on 30th September, 2019. On the date of alleged incident the prosecutrix was major. This Court already considered that the prosecutrix herself had retracted from her statement recorded under Section 164 of the Cr.PC. Before the Court she had deposed that the relations were consensual.

3. Today, learned Advocate for the Applicant produces on record copies of the Birth Certificate issued by the Village Development Officer showing date of birth of the prosecutrix as 5th February, 2001. He has also produced on record copy of School Leaving Certificate/SCC Certificate showing the same date. The copies of both these Certificates are produced on record. This Court is affected that, the prosecutrix was major on the date of incident. *Prima faice* it is seen that the relation was consensual. This case would not fall for under POCSO Act. Considering this fact this Court is inclined to allow the Application. Hence the following order.

ORDER

- a) Application is therefore allowed.
- b) The sentence awarded by the learned Special Judge, (POCSO) Solapur, in Special Case No.205 of 2020 stand suspended.
- c) The Applicant shall be released on bail on furnishing P.R. bond of Rs. 15,000/- and one or more solvent sureties in the like amount.
- d) Pending the Appeal Applicant shall keep informed concerned Police Station about his residential address, mobile number etc and other contact

details till the final disposal of the appeal

- e) Interim Application stands disposed of.
- f) The Applicant be released temporarily by giving cash security for two weeks. The Applicant to give solvent surety within two weeks after he is released on bail.

(KISHORE C. SANT, J.)