

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

**INTERIM APPLICATION NO. 2526 OF 2022  
IN  
CRIMINAL APPEAL NO. 1072 OF 2022**

Santosh Dattatray Bandal

... Appellant/Applicant

**Vs.**

The State of Maharashtra & Anr.

... Respondents

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Adv. A. S. Deshmukh a/w Adv. Anjali Deshmukh for the  
Appellant/Applicant.

Mrs. M. R. Tidke, APP for State.

Adv. Sagar S. Ambedkar, for the Respondent No. 2 (Appointed).

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

**DATE : 23<sup>rd</sup> APRIL, 2024**

**PC.:-**

1. Heard. This Application is for suspension of sentence and release of the Applicant on bail. The Applicant is serving a sentence for offences punishable under Section 376, 376(2) (i) of the Indian Penal Code and under Section 5(l), (j), (ii) punishable under Section 6 of the POCSO Act, and he is directed to suffer sentence of 15 years rigorous imprisonment and to pay a fine of Rs. 25,000/-, in default to suffer R.I. for two years.

2. The learned Advocate for the Applicant vehemently argued that the Applicant is in custody since 03.10.2016, and this has completed sentence of more than 7 years and 6 months out of 15 years. He also further stated that the Applicant is only earning member in the family

having two kids.

3. Learned APP and learned Advocate for Respondent No. 2 however points out the evidence. It is seen from the evidence that the Victim was hardly 13 years of age when the incident had taken place. The Applicant has repeatedly committed the rape on the Victim.

4. Though it is argued by the learned Advocate for the Applicant that there is delay in lodging the FIR about 1 year and that there is no evidence to prove the age of the Victim. This Court finds that school leaving certificate was on record. The argument of the learned Advocate is that while recording the date of birth in school no other document was produced.

5. *Secondly* it is pointed out by the learned Advocate for the Respondent that the Victim delivered a child after the incident and the DNA Report of the child matches with that of the Accused.

6. This Court finds that when there is such evidence, no case is made out to grant bail merely because the Applicant has completed 50 years of sentence.

7. The Application therefore deserves to be dismissed, and the same is hereby dismissed.

8. Above Criminal Appeal be expedited.

(KISHORE C. SANT, J.)