

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

902 CRIMINAL APPLICATION NO. 263 OF 2025
IN APEAL/225/2025

Krishna Chandoji Sontakke

VERSUS

The State Of Maharashtra

...

Mr. Suresh P. Salgar - Advocate for Applicant

Mr. B. A. Shinde - APP for State

Smt. Manjushri V. Narwade - Advocate for Respondent No. 2 / Victim

...

CORAM : NEERAJ P. DHOTE, J.

DATED : 19TH DECEMBER, 2025

PER COURT : -

1. This is an Application for suspension of sentence imposed by the learned Extra District Judge – 1 & A.S. J., Special (POCSO) Court, Nanded, in Spl (POCSO) Case No. 47 of 2017, by Judgment and Order dated 01.04.2022, convicting and sentencing the Applicant as follows: -

“O R D E R

- 1) *The accused Krishna s/o Chandoji Sontakke is held guilty for the offence punishable under Sections 377 & 376(2)(i) of the Indian Penal Code, under Section 3 punishable under Section 4 and under Section 7 punishable under Section 8 of the Protection of Children from Sexual Offences Act.*
- 2) *The accused is sentenced to suffer rigorous imprisonment for seven years and to pay a fine of Rs.2,000/ (Rs. Two Thousand only). In default to suffer simple imprisonment for fifteen (15) days for the offence under Section 3 punishable under Section 4 of the Protection of Children from Sexual Offences Act.*
- 3) *The accused is sentenced to suffer rigorous imprisonment for a period of three years and to pay a fine of Rs.2,000/ (Rs. Two*

thousand only). In default to suffer simple imprisonment for fifteen (15) days for the offence punishable under Section 377 of the Indian Penal Code.

- 4) The accused is further sentenced to suffer rigorous imprisonment for a period of three years and to pay fine of Rs.1,000/ (Rs.One thousand only). In default to suffer simple imprisonment for ten (10) days for the offence under Section 7 punishable under Section 8 of the Protection of Children from Sexual Offences Act.*
- 5) No separate sentence for the offence punishable under Section 376(2)(i) of the Indian Penal Code is awarded in view of Section 42 of the Protection of Children from Sexual Offences Act.*
- 6) All the sentences shall run concurrently.*
- 7) The attached muddemal property, being worthless, be destroyed, after appeal period is over.*
- 8) The accused to surrender his bail bonds.*
- 9) The accused is taken in custody and sent to serve the sentence.*
- 10) Copy of this Judgment be supplied to the accused, free of costs.Dictated and pronounced in open Court.”*

2. Heard the learned Advocate for the Applicant, learned APP for the State and the learned Advocate for Respondent No. 2 / Victim. With their assistance, perused the relevant evidence.

3. The Case of the Prosecution as stated in the impugned Judgment is as follows: -

“02. The informant resides in the village and the victim is one of the daughter of the informant. The informant has one more son who is eleven years of age. The age of the victim when the

report was filed was seven years. She used to take education in second standard. It is the case of the prosecution that on 26.11.2016 at about 10.00 a.m. the informant left the victim and her another son in the school in the village. Thereafter she went for labour work. At about 4.00 p.m. when she was in the land and was doing labour work, her son and the daughter of brother of the husband of the informant came in the land where the informant was working. Both of them told the informant that the victim is crying and something has happened to her. They asked the informant to come home.

- 03 *On getting such information from her son, the informant returned home. When she returned home, she found that the victim was crying. The informant inquired with the victim as to what had happened. It is alleged that at that time, the victim told the informant that on that day i.e. on 26.11.2016 at about 1.00 p.m. she returned to home after attending the school, she had lunch and was playing in the courtyard of the neighbour. She further told the informant that at about 2.00 p.m. the accused whose house is near to their house took the victim and went into his house. She told the informant that at that time, she was crying but the accused slapped her. She further told the informant that the accused by taking the victim into the room, removed her nicker and made the victim to sleep on the ground facing towards ground. Thereafter he removed his nicker. The victim was having pains.*
- 04 *On such information given by the victim, the informant inspected the anus of the victim and found that there was bleeding and there was some blood stains on the bottom wear (pant) of the victim. There was some blood stains near the anus also. Some cracks were there on her anus.*
- 05 *She immediately informed to her husband by giving call on his mobile. Her husband returned home. Thereafter the informant told about the incident to him. Both of them decided to go to the hospital and accordingly the informant, her husband and the victim went to the Government hospital Vishnupuri Nanded on the motorcycle of one Gajanan Suryawanshi. There the victim came to be admitted.”*

the Victim and the medical evidence. The Victim is examined as PW5. She deposed that, on 26.11.2016, when she came home from the School in the afternoon and after taking meals, went to play. The Appellant came and picked her up, took her to his house, removed her clothes and she suffered bleeding injury from her back side. It has come in her evidence that, on that day, the Appellant was alone in his house. She denied all the suggestions of false implication. By examining the School Headmaster as PW9, the Prosecution proved that, at the relevant time the Victim was a Child as defined under Section 2(d) of the Protection of Children from Sexual Offences Act [hereinafter referred to as "POCSO Act"]. There is medical evidence on record in the nature of testimony of the Medical Officer, who examined the Victim on the day of the incident, as PW11-A. His evidence show that, there were in all nine (9) injuries suffered by the Victim, which were as follows:

- "1) Linear abrasion, it was vertically on the left buttock region, 3.5 cm from midline of back direction from above downwards. The size was 3.7 x 0.2 cm. The margins were red and inflamed and the nature of the injury was simple.*
- 2) Injury No. 2 was such that there was laceration of 1.1 x 0.5 cm. It was at 6 O'Clock position and it was anal and perineal region. The margins were red, inflamed and irregular. The swelling was present. The nature of the injury was grievous.*
- 3) This injury was again laceration, it was between 3 to 4 O'Clock position and it was in perineal region. Size of the injury was 1 x 0.6 cm. The margins were red, inflamed and irregular. Swelling and bleeding was present. The injury was grievous in nature.*

- 4) *Fourth injury was also of laceration and it was in 8 O’Clock position and was in perennial region. The size of the injury was 0.6 x 0.3 cm. The margins were red, irregular and bleeding was present. Nature of the injury was grievous.*
- 5) *Fifty injury was again laceration, it was in 11 O’Clock position and it was in anal and perennial region and the size of the injury was 1 x 0.5 cm. The margins were read. The bleeding was present. Nature of the injury was grievous.*
- 6) *Sixth injury was again laceration, it was near the left labia majora and minora region, size of the injury was 1.8 x 1 x 0.3 cm. The margins were red and irregular, bleeding was present. Nature of the injury was grievous.*
- 7) *Seventh injury was laceration, it was near right labial region, size was 1 x 0.6 x 0.3 cm, the margins were read, irregular and the bleeding was present. Nature of the injury was grievous.*
- 8) *Eighth injury was laceration which was in the midline perennial region having the size of 0.5 x 0.3 x 0.1 cm, the colour of the injury was red and it was irregular, swelling and bleeding was present. Nature of the injury was grievous.*
- 9) *Ninth injury was laceration, it was on posterior lateral part of anus having size 1.3 x 0.4 cm, colour of the injury was red and the bleeding was present. Nature of the injury was grievous.”*

5. The medical evidence further show that, the gate of the Victim was painful and there was difficulty for her in walking. There was redness, inflammation and swelling on the labia majora and labia minora. There were multiple lacerations. There was redness and swelling and tenderness on the clitoris. There was pain and tenderness on palpation. The medical papers corroborate the testimony of the Medical Officer. Though the CA reports do not show semen on the articles, the testimony of the Victim remained unshaken in the cross-

examination and the medical evidence fully corroborate her testimony. With this evidence on record, non-examination of the grand-mother of the Victim, who used to sit in the courtyard when the Victim and the other children used to play, and further the *Sarpanch* and the Police *Patil* of the village with whom the Informant had discussed the incident, would not be fatal for Prosecution. The learned Trial Court, on appreciation of the evidence on record, convicted and sentenced the Appellant. Considering the strong evidence on record, in my considered view, this is not a case to suspend the sentence. Hence, I pass the following order:-

ORDER

- [i] The Application is rejected.
- [ii] The fees of Mr. Suresh P. Salgar, learned Advocate appointed to represent the Applicant, and the fees of Smt. Manjushri V. Narwade, learned Advocate appointed to represent Respondent No. 2 / Victim, are quantified at Rs. 15,000/- [Rupees Fifteen Thousand] each, which shall be paid by the High Court Legal Services Sub Committee, Aurangabad.
- [iii] The Application stands disposed off.

[NEERAJ P. DHOTE]
JUDGE

SG Punde