



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

901 CRIMINAL APPLICATION NO. 839 OF 2025
IN CRIMINAL APPEAL NO. 150/2025
WITH
CRIMINAL APPEAL NO. 150 OF 2025

RUSHIKESH BHIMRAO ALIAS PIMRAO WALUNJKAR
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Applicant : Mr. Nilesh S Ghanekar
APP for Respondent/State: Mrs. S. N. Deshmukh
Advocate for Respondent No.2 : Mr. S. S. Kalaskar (Appointed)
...

CORAM : NITIN B. SURYAWANSHI AND
SANDIPKUMAR C. MORE, JJ.

DATED : 12th AUGUST, 2025

ORDER:-

1. The applicant is convicted under Section 376(2)(i)(j)(n) of the Indian Penal Code, and under Section 5(1) punishable under Section 6(1) of the Protection of Children From Sexual Offences Act, in Special (POCSO) Case No. 44 of 2020 by learned Judge, Special Court (POCSO Act) Shrigonda and sentenced to suffer life imprisonment, he seeks bail by this application.
2. In support of the charge, prosecution has examined ten witnesses. On appreciation of evidence, the trial Court convicted the

applicant.

3. Heard Learned Advocate for the applicant and learned A.P.P. for the State, and learned Advocate for Respondent No.2.

4. Perusal of the record shows that the victim has categorically stated that under threat to kill her father, the accused has committed repeated sexual intercourse with her. Her mother's evidence has corroborated her testimony. Medical evidence also supports the prosecution case. *Prima facie*, therefore, there is sufficient evidence to sustain the conviction of the accused.

5. Learned Advocate for the applicant has strenuously argued that the prosecution has failed to prove that the victim was minor at the time of incident. The trial Court therefore, has erred in recording a finding that the victim was minor at the time of incident. There is no merit in the said argument of the accused. It is a matter of record that prosecution has proved the age of the victim in the evidence of P.W.3 Gram Sevak, who has proved birth certificate on record. P.W. 4 Head Master of the School, wherein the victim, at the relevant time, was taking education, has proved the date of birth of the victim on the basis of transfer certificate. By relying on the ratio in the case of ***Jarnail Singh Vs. State of Haryana [AIR 2013 Supreme Court 3467]***, the trial Court has rightly held that the victim was minor at the

relevant time.

6. For the aforestated reasons, we are of the *prima facie* view that trial Court is justified in convicting the applicant by properly appreciating the evidence on record. The applicant has failed to make out the case of suspension of substantive sentence of life imprisonment. The application being devoid of merit, is dismissed.

7. Learned Advocate for respondent No.2 be paid legal remuneration as per schedule, within four weeks from today.

(SANDIPKUMAR C. MORE)
JUDGE

(NITIN B. SURYAWANSHI)
JUDGE

Y.S. Kulkarni