



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

APPLICATION FOR LEAVE TO APPEAL BY STATE NO. 25 OF 2025

THE STATE OF MAHARASHTRA

**VERSUS**

RAGHUVIR AJITSING THAKUR AND ANOTHER

...

Additional Public Prosecutor for Appellant : Mr. S. J. Salgare

....

...

**WITH**

**CRIMINAL APPEAL NO. 1094 OF 2024**

XYZ

**VERSUS**

THE STATE OF MAHARASHTRA AND ANOTHER

....

Kishor Khade Advocate for the Appellant

Mr. S. J. Salare, A.P.P. for Respondent-State

.....

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

**DATED : 21<sup>th</sup> AUGUST, 2025**

**ORDER:-**

1. By filing Criminal Appeal No. 1094/2024 under Section 372 of the Code of Criminal Procedure, the victim challenges the impugned judgment and order dated 06.09.2024 of acquittal of the accused in Special (POCSO) case No. 74 of 2024 passed by the learned Special (POCSO) Judge Beed. The State by filing application for leave to file appeal seeks permission to file appeal against the same judgment and order.

2. Prosecution case is that victim, who was minor at the time of incident was kidnapped by the accused on 09.07.2020 and the accused thrice committed forcible sexual intercourse with her. Father of the victim lodged the F.I.R. Two accused were charge sheeted. Accused No.1 is the person who has committed the crime the and accused No.2 has helped him at the time of kidnapping of the victim. The accused were therefore charged under Sections 363, 366(A), 341, 376(2)(n)(f)(3), 120-B, 201 read with Section 34 of the Indian Penal Code and Section 4 and 6 of Protection of Children From Sexual Offence Act, 2012. Accused No.2 absconded hence his trial separated. The prosecution has examined 12 witnesses in support of its case. The trial Court acquitted the accused.

3. Heard learned Advocate for the appellant and learned A.P.P for the State. Perused the record.

4. Learned Advocate for the appellant and learned A.P.P have assailed the impugned judgment of acquittal contending that though the age of the victim is proved by the prosecution, trial Court has erroneously discarded the said evidence. According to them, victim has supported the prosecution case. However, the trial Court has failed to appreciate the evidence in proper perspective and has erred in acquitting the accused.

5. Perusal of the record indicates that the prosecution has failed to prove that the victim was minor at the time of the incident. The Birth Certificate produced on record shows the surname of the father of the victim as 'Rajput' and not 'Sharma'. Therefore, the trial Court has rightly refused to rely on it. Though the Principal of Headmaster of the School, in which the victim was taking education was examined, and she has stated that the date of birth of the victim as per School record is 13.10.2005, but she has admitted that she does not know on what basis the entry of date of birth was taken on school record. The trial Court therefore, has rightly refused to rely upon it. Evidence of victim indicates that she was consenting party. The trial Court therefore, has rejected the prosecution case after properly appreciating the evidence on record.

6. We do not find any illegality or perversity in the approach of the trial Court. The appeal and application, being devoid of merits are dismissed

**(SANDIPKUMAR C. MORE)**  
**JUDGE**

**(NITIN B. SURYAWANSHI )**  
**JUDGE**