

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

21 CRIMINAL APPLICATION NO. 2217 OF 2024
IN APEALST/6131/2024

Tukaram Bhanudas Shinde

VERSUS

The State Of Maharashtra

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Mr. Apparao Prakash Yenegure - Advocate for Applicant

Mr. B. A. Shinde - APP for State

Mr. Nasimoddin R. Shaikh - Advocate (appointed through Legal Aid) for
Respondent No. 2

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CORAM : NEERAJ P DHOTE, J.

DATED : 15TH DECEMBER, 2025

PER COURT : -

1. This is an Application for suspension of substantive sentence imposed upon the Applicant by the learned Special Judge, Beed, by the Judgment and Order dated 28.08.2019 in Spl. (POCSO) Case No. 40/2016, convicting and sentencing the Applicant/Appellant as under:-

"ORDER

1. *The accused Tukaram Bhanudas Shinde, R/o. Hattikhana, near Krushna Mandir, Beed, Tq. Dist. Beed, is hereby convicted for the offence punishable under Sections 376 (2)(i) of Indian Penal Code and Section 4 and 6 of Protection of Children from Sexual Offences Act, 2012 vide section 235 (2) of the Code of Criminal Procedure.*
2. *The accused Tukaram Bhanudas Shinde, R/o. Hattikhana, near Krushna Mandir, Beed, Tq. Dist. Beed, is convicted for the offence punishable under section 376(2)(i) of Indian Penal Code vide section 235 (2) of the Code of Criminal Procedure and sentenced to undergo rigorous imprisonment for ten (10) years and pay fine of Rs. 2,000/ (Rs. Two Thousand only). In default, he shall undergo rigorous imprisonment for one (1) month.*
3. *The accused Tukaram Bhanudas Shinde, R/o. Hattikhana, near*

Krushna Mandir, Beed, Tq. Dist. Beed, is convicted for the offence punishable under Section 6 of The Protection of Children From Sexual Offences Act, 2012, vide section 235 (2) of the Code of Criminal Procedure and sentenced to undergo rigorous imprisonment for ten (10) years and pay fine of Rs.2,000/ (Rs. Two Thousand only). In default, he shall undergo rigorous imprisonment for one (1) month.

4. *The period of inquiry, investigation and trial undergone by the accused Tukaram Bhanudas Shinde, R/o. Hattikhana, near Krushna Mandir, Beed, Tq. Dist. Beed, since 12/10/2016 till today be set off vide Section 428 of the Code of Criminal Procedure.*
5. *The substantive sentence of the accused shall run concurrently vide section 31 (1) of the Code of Criminal Procedure.*
6. *Muddemal property bearing GMP No.75/2017, Article A and B, being worthless be destroyed after appeal period is over.*
7. *A copy of the Judgment be given to the accused in gratis and forwarded to District Magistrate, Beed vide Section 353(4) and 365 of the Code of Criminal Procedure respectively.*
8. *The accused is apprised of provision of appeal.*

Dictated and pronounced in the open Court.”

2. The Prosecution case in brief, as seen from the impugned Judgment and Order, is reproduced as follows: -

- “3. *On 11/10/2016, mother of the victim lodged complaint that, she and her husband are residing as tenants at Hattikhana alongwith her children. The accused and his wife are residing opposite to the house of victim. At around 7.00 PM, the victim aged about 4 years went to play outside. After 10 minutes she returned crying and her underpants were pulled down. On enquiry she pointed finger towards accused and stated “Mama ne hath dala”. The family members of victim enquired accused to which he said nothing happened. The mother of victim took her inside the house and checked her. She found cut injury on the vagina of the victim. The accused had ran away so the parents of victim took her to police station. The complaint was registered vide Crime No. 286/2016 of Beed City Police Station.”*

3. The sentence awarded to the Applicant is of ten (10) years

of imprisonment. The Applicant is behind the bars since 12.10.16 [total nine (9) years and two (2) months] i.e. ten (10) months short of completing his substantive sentence. The Appeal is admitted today itself after condoning the delay. The Applicant was 80 years of age at the time of offence and is 88 years of age as on date. On the ground of long incarceration, the Application deserves to be allowed. Hence, I proceed to pass the following order:

ORDER

- [i] The Application is allowed.
- [ii] The sentence imposed upon the Applicant by the learned Special Judge, Beed, by the Judgment and Order dated 28.08.2019 in Spl. (POCSO) Case No. 40/2016, is hereby suspended till the final decision of the Appeal.
- [iii] The Applicant be released on bail on his furnishing personal bond of Rs.15,000/- [Rupees Fifteen Thousand], with one or two sureties in the like amount.
- [iv] Bail before the Trial Court.
- [v] The fees of the learned Advocate Mr. Nasimoddin R. Shaikh appointed to represent Respondent No. 2, is quantified at Rs. 10,000/- [Rupees Ten Thousand], which shall be paid by the High Court Legal Services Sub Committee, Aurangabad Bench.
- [vi] The Application stands disposed off.

[NEERAJ P. DHOTE]
JUDGE