



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

**940 CRIMINAL APPLICATION NO. 2297 OF 2025
IN APEALST/6520/2025**

Balaji Anil Gadhave

VERSUS

The State Of Maharashtra And Another

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Advocate for Applicant : Mr. Jadhav Madhav K.

APP for Respondents-State: Mr. P. P. Dawalkar

Advocate for Respondent No.2 : Mr. Nupur Paliwal (Appointed)

...

**WITH
CRIMINAL APPLICATION NO. 2296 OF 2025
IN APEALST/6520/2025**

...

CORAM : ARUN R. PEDNEKER, J.

Dated : July 23, 2025.

PER COURT :-

1. **Criminal Application No. 2296 of 2025** is filed for condonation of delay of 11 days caused in filing the Criminal Appeal. For the reasons stated in the application, the delay is condoned. Accordingly, the application is allowed and disposed of.
2. In **Criminal Application No. 2297 of 2025**, heard the learned Counsel for the applicant, the learned APP for respondent-State, and the learned appointed Counsel for respondent No.2.
3. The present application is filed by the original accused for suspension of the substantive sentence imposed on him in **Special (Atrocity) Case No. 12/2018**, dated **16/04/2025**, by the learned Additional Sessions Judge, Hingoli. The applicant has been convicted and sentenced as under : -

"1. Accused Balaji Anil Gadhave is hereby convicted for the offences punishable under section 363 and 366 of IPC and Section 3(2)(v) of S.C.&S.T

(Prevention of atrocities) Act 1989 Act in view of Section 235(2) of the Code of Criminal Procedure and sentenced as under -

A. *For the offence punishable under section 363 of IPC he shall suffer rigorous imprisonment of three years and pay fine amount of Rs.5,000/- in default SI for one month.*

B. *For the offence punishable under section 366 of IPC he shall suffer rigorous imprisonment of three years and pay fine amount of Rs.10,000/- in default SI for one month.*

C. *For the offence punishable under section 3(2)(v) of The Scheduled Castes and Scheduled Tribes (Preventions of Atrocities) Act, 1989 he shall suffer rigorous imprisonment of three years and pay fine amount of Rs.10,000/- in default SI for one month....."*

4. The learned Counsel for the applicant invites attention to **paragraph No.15 of the Trial Court's judgment**, which reads as under : -

*"15. In her cross-examination she says that she had taken education at Zilla Parishad Sengaon. She was residing at Sengaon since her birth. The Persons Vijay Sable was belonged to Maratha community and Nagesh Pawar belonged Lohara community. Both above said persons had taken education in her school, hence known to her. She admis that person Vijay Sable was giving messages of accused to her and on 29.04.2018 she told accused not to call her. She has admitted the contents of document Exh-56. She has stated that she sue-moto went to ground of Zilla Parishad and sat on the motorcycle driven by the accused. She has further admitted that she communicated her intention to marry with accused to her cousin residing at Bhosari Pune. She has stated that, she did not ry to ran away from the possession of accused when she was at Bhusawal and Akola. **She admits that some persons were residing at Sengaon nearby the spot of incident and there was no sexual intercourse committed by the accused.** There was good relation in between her parents and parents of accused in the year 2018. She has admitted that contents of letter Exh-56 were written by her as per her wish."*

The learned Counsel for the applicant submits that the victim, in her cross-examination, clearly admitted that no sexual intercourse was committed by the accused. He further submits that the offence of kidnapping is not made out, particularly considering that the victim was nearly 17½ years of age at the relevant time and had voluntarily accompanied the applicant.

5. The learned APP opposes the prayer for suspension of sentence and the release of the applicant on bail. It is submitted that the applicant has been convicted for serious offences under the Indian Penal Code as well as the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989. Considering the gravity of the offence and the findings recorded by the Trial Court, the learned APP prays for rejection of the present application.

6. In view of the evidence available on record and considering that the applicant has been sentenced to three years for each of the offences, the substantive sentence imposed on the applicant deserves to be suspended till final hearing and disposal of the appeal, subject to the condition that he deposits the fine amount before the Trial Court, if the same has not already been deposited, and on the following terms :

ORDER

- 1) The application stands allowed, subject to the condition that the applicant shall deposit the fine amount before the

Trial Court, if the same has not already been deposited.

2) The substantive sentence imposed on the applicant/appellant in **Special (Atrocity) Case No. 12/2018**, dated **16/04/2025**, by the learned Additional Sessions Judge, Hingoli, is hereby suspended till the final hearing and disposal of **Criminal Appeal Stamp No. 6520/2025**.

3) The applicant/appellant shall be released on execution of **Personal Bond of Rs.30,000/-** (Rupees Thirty Thousand only) with **two sureties of Rs.15,000/-** (Rupees Fifteen Thousand only) each.

4) The applicant/appellant shall not commit any criminal activity during the pendency of the appeal.

5) Bail be furnished before the Trial Court.

7. Fees of the appointed advocate is quantified at Rs.10,000/- (in words rupees ten thousand only), to be paid by High Court Legal Services Sub-Committee, Aurangabad.

(ARUN R. PEDNEKER, J.)

vj gawade/-.