



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

16 CRIMINAL APPLICATION NO. 2232 OF 2023
IN APEAL/545/2023

MAHESH S/O BHAUSAHEB DALVI

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

...

Mr. Sopan G. Bobde, Advocate for Applicant;

Ms. M. L. Sangit, APP for Respondent No.1-State;

Ms. Shilpa L. Awachar, Advocate appointed for Respondent No.2.

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CORAM : NEERAJ P DHOTE, J.

DATE : 15th DECEMBER, 2025

PC.:-

1. This is an Application for suspension of sentence and bail.
2. The Applicant is convicted for the offence punishable under Section 363, 376(2) of the Indian Penal Code (IPC) and offence punishable under Sections 4 and 8 of the Protection of Children from Sexual Offences, Act, 2012 (POCSO). The maximum sentence imposed on the Applicant is of 20 years.
3. Heard learned Advocate for the Applicant, learned APP for the Respondent-State and learned Advocate for Respondent No.2-Victim. With their assistance, perused the evidence on record.
4. It is the case of the prosecution that, the Applicant kidnapped the minor daughter of the Informant on 26.08.2019. The Victim was

taken to Mumbai. The Applicant committed forcible sexual intercourse with the Victim during the stay at Mumbai. The Victim's father lodged the missing report. The Police were able to trace the Applicant and the Victim and they were taken into custody. The Victim was referred for medical examination. The Victim was found pregnant. The Applicant came to be arrested. The statement of witnesses were recorded. The samples of the Victim and the Applicant came to be collected. Abortion was done. The Chemical Analysis Report revealed that, the Applicant and the Victim were the biological parents of the fetus. On completion of the investigation, the Applicant came to be charge-sheeted and thereafter, convicted after a full-fledged trial.

5. It is clear from the evidence of the Victim, who is examined as PW2 that, the Applicant was residing in front of the Victim's house. They got acquainted with each other and they fell in love. As per the evidence of PW8, who was the Headmaster of the Primary School, where the Victim was studying, her date of birth was recorded as 30.04.2004 and accordingly, the Victim was 15 years of age at the time when she eloped with the Applicant. The evidence of the School Headmaster shows that, there was overwriting on the date of birth of the Victim in the school record. Though, the CA report indicate that, the Applicant and the Victim were biological parents of the fetus, there is no evidence to establish the chain of handling of DNA samples, so as

to rule out the possibility of tampering with the samples. The Applicant was 19 years old at the relevant time. These aspects clearly show that, the Applicant have arguable points in the Appeal and good case on merits. The Appeal is recently admitted. The record and proceedings along with papers are awaited, therefore, the Appeal is not likely to be heard finally in near future. In this view of the matter, the following order is passed:-

ORDER

- (i) The Application is allowed.
- (ii) The substantive Sentence imposed by the learned Special Judge (POCSO) Aurangabad in Special Case No.211/2019 vide the Judgment and order dated 14.06.2023 on the Applicant, by name, Mahesh Bhausaheb Dalvi, for the offence punishable under Section 363, 376(2) of the IPC and Sections 4 and 8 of POCSO, is suspended during pendency of the Appeal.
- (iii) Applicant-Mahesh Bhausaheb Dalvi be released on bail on furnishing P. R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with one surety in the like amount.
- (iv) The Applicant–Appellant shall co-operate in early hearing of the Appeal.

- (v) Bail before the Trial Court.
- (vi) Fees of the learned Advocate Ms. Shilpa L. Awachar appointed through legal aid to represent Respondent No.2 is quantified at Rs.10,000/- (Rs. Ten Thousand) for this Application, which shall be paid by the High Court Legal Services Sub-Committee, Aurangabad Bench.
- (vii) Application stands disposed off accordingly.

(NEERAJ P. DHOTE, J.)

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