



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

927 CRIMINAL APPLICATION NO. 3667 OF 2024
IN APEAL/768/2024

Ravindra Dodhu Behare
VERSUS
The State Of Maharashtra

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Mr. S. B. Bhapkar and Mr. Vinod S. Patil – Advocate for the Applicant
Mr. C. V. Bhadane – APP for Respondent/State
Mr. N. K. Tungar – Advocate (appointed) for Respondent No. 2 / Victim
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CORAM : NEERAJ P DHOTE, J.

DATED : 11TH SEPTEMBER, 2025

PER COURT : -

1. This is an Application for suspension of substantive sentence.

2. The learned Additional Sessions Judge, Dhule, District Dhule, convicted the Applicant by Judgment and Order dated 25th July, 2024 passed in Special [POCSO] Case No. 76 of 2022, and sentenced as follows :

“[1] Accused Ravindra Dodhu Behare is convicted vide Section 235(2) of the Code of Criminal Procedure for the offences punishable under Section 376(1), 376(3) of the Indian Penal Code and Section 4, 6 of the Protection of Children From Sexual Offences Act, 2012.

[2] He is sentenced to suffer Rigorous Imprisonment for twenty years, and to pay fine of Rs.30,000/- (Rs. Thirty Thousand only). In default of payment of fine, he is further sentenced to suffer Rigorous Imprisonment for two months in respect of offence punishable

under Section 6 of the The Protection of Children From Sexual Offences Act, 2012.

[3]

[4] *Since sentence is awarded under Section 6 of The Protection of Children From Sexual Offences Act, 2012, separate sentence for the offence punishable under section 376(3) of Indian Penal Code is not awarded in view of Section 42 of Protection of Children from Sexual Offences Act, 2012.*

[5] *Since sentence is awarded under section 6 of POCSO and section 376(3) of I.P.C. separate sentence for section 4 of POCSO and section 376(1) is not awarded as the offence is minor and the punishment is awarded for major offence.”*

3. It is submitted by the learned Advocate for the Applicant / Appellant that, the Informant, who is the mother of the Victim, is not an eye-witness to the incident. The Police Officer, who recorded the FIR, is not examined. The witness to whom the victim's brother had reported the incident is also not examined. There is a delay of five [5] days in recording the statement of the victim and the victim's brother. The medical evidence and the C.A. report do not corroborate the testimony of the victim. The Applicant is behind the bars for more than three [3] and half years. Considering the evidence on record, it is difficult to maintain the conviction and hence, the Applicant be released on bail by suspending his sentence.

4. The Application is opposed by the learned APP for the State and the learned Advocate for Respondent No. 2 / Victim. They submit that, the victim was seven [7] years of age and she was examined before

the learned Trial Court. The conviction can be maintained solely on the testimony of the Victim and, therefore, absence of corroboration is not fatal. The report is lodged on the very next day. Since the learned Trial Court has properly appreciated the evidence on record, no case for suspension of sentence is made out and hence, the Application be rejected.

5. Admittedly, the Informant, who is the Victim's mother, is not an eye-witness to the incident. The brother of the victim, who is examined as an eye-witness to the incident, admittedly, his statement was recorded on fifth [5th] day of the incident. The case mainly rests on the testimony of the victim girl, who is examined as a witness no. 5. There is no dispute that the victim was minor and aged about seven [7] years and six [6] months at the time of incident. Her testimony is recorded in question – answer form. The answer to Questions Nos. 33 and 34 are relevant and the same are reproduced as below:

“Q. 33. What happened then?

Ans. He came inside the house silently, he closed the door, he spread quilt on the ground, he removed his knicker and removed my knicker also, he made me sleep on the quilt and sat on my person in horse position. He touched my private part by his hands.

Q. 34. What happened then?

Ans. He spread my feet and inserted his private part in my private part. He did this for two to three times. I was having pain therefore I started crying.”

6. If the above referred answers of the Victim are accepted, it is strange that no injury was noticed on the Victim. As per the prosecution, the incident occurred between 10:00 am to 12:00 pm on 20th April, 2022. According to the Medical Officer, who is examined as P.W. No. 3, the Victim was brought to the Rural Hospital at 01:22 am on 21.04.2022. From this, it is clear that the Victim was medically examined within 14 hours from the incident. Her evidence shows that there were no injuries over the body and genitals of the Victim. The C.A. reports do not show any blood or semen on the articles such as quilt, legging, half shirt, frock (uniform), half pant, sleeves baniyan and an underpant. Similarly, neither blood nor semen were detected in the vaginal swab and the nail clippings of the victim. It is true that the conviction can be based on the sole testimony of the victim, if it is found to be concrete. However, considering the age of the victim and the answers given by the Victim to the above-referred questions, coupled with four days' delay in recording her statement, the victim's testimony needs corroboration. With the evidence available on record, *prima facie*, the Applicant has a good case on merits. The Appeal is not likely to be heard in the near future. He is behind the bars for more than three [3] and half [1/2] years. Under such circumstances, I am inclined to allow the Application and hence, the following order.

ORDER

[i] Application is allowed.

- [ii] The substantive sentence imposed upon the Applicant by learned Additional Sessions Judge, Dhule, District Dhule, by Judgment and Order dated 25th July, 2024 passed in Special [POCSO] Case No. 76 of 2022, is hereby suspended till the final disposal of Criminal Appeal.
- [iii] The applicant be released on P.R. of Rs.15,000/- [Rupees Fifteen Thousand] with one surety in the like amount.
- [iv] The Applicant shall report to the concerned Police Station where the Crime was registered i.e. Songir Police Station, Dhule, once in a month, in the last week of month, until further orders.
- [v] Bail before the Trial Court.
- [vi] For this Application, fees of the learned Advocate Mr. N. K. Tungar appointed to represent Respondent No. 2 / Victim is quantified at Rs. 10,000/- [Rupees Ten Thousand], which shall be paid by the High Court Legal Services Sub-Committee, Aurangabad.
- [vii] Application stands disposed off.

[NEERAJ P. DHOTE]
JUDGE

SG Punde