

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

CRIMINAL APPLICATION NO.3826 OF 2024
IN

CRIMINAL APPEAL NO.790 OF 2025

Ganesh Baburao Jahar

... Applicant

Versus

The State of Maharashtra And Another

... Respondents

.....

Shri. Sopan G. Bobade, Advocate for the Applicant

Ms. M. L. Sangit, APP for the Respondent No.1 – State.

Ms. Deepali S. Patil, Advocate for the Respondent No.2 (Appointed)

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CORAM : NEERAJ P. DHOTE, J.

Dated : NOVEMBER 17, 2025

PER COURT :-

. This is the Application for Suspension of substantive Sentence imposed by the learned Additional Sessions Judge, Jalna in Spl. Case (Child) No.6/2018 convicting the Applicant – Appellant as follows :

“ORDER

“1. Accused Ganesh Baburao Jahar is hereby convicted for the offence punishable under Section 5 (j) (ii) read with Section 6 of Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for 10 years and shall pay fine of Rs. 50,000/- in default to pay fine, to suffer further rigorous imprisonment six months.

2. He is also convicted for the offence punishable under Section 363 of IPC, but no separate sentence is awarded, being lesser offence.

3. He is also convicted for the offence punishable under Section 366-A of IPC, but no separate sentence is awarded, being lesser offence.

4. He is also convicted for the offence punishable under

Section 376(2)(i) (n) of IPC, but no separate sentence is awarded, being lesser offence.

5. He is also convicted for the offence punishable under Section 3 read with Section 4 of POCSO Act, but no separate sentence is awarded, being lesser offence.

6. The seized muddemal i.e. one quilt (godhadi) and clothes of accused and that of victim be disposed off after appeal period is over.

7. If the amount of fine is recovered, it be paid to the victim girl (PW8) as compensation vide Section 357 (1) of the Code of Criminal Procedure.

8. The accused be given set off from 10/04/2021 till 14/06/2021 vide Section 428 of the Code of Criminal Procedure.

9. Copy of the judgment be given to accused free of cost.”

2. The case of the Prosecution, in brief, is that, the Informant was having two Daughters and one Son. The Victim was below the age of 18 years. On 11.05.2017, all of a sudden, the Victim left her parental house along with cash and some gold ornaments without informing anybody. Though search of the Victim was taken, she was not found. The Informant suspected that, the Victim eloped with the Applicant – Appellant as he used to frequently visit their house. The Report was lodged. The Victim and the Applicant were found at village Katardadi in the State of Karnataka. The Statement of the Victim was recorded. Crime came to be registered against the Applicant – Appellant. After the investigation, the Charge-sheet was filed and after the Trial, the Applicant – Appellant came to be convicted and sentenced as above.

3. Heard the learned Advocate for the Applicant – Appellant, the learned APP for the State and the learned Advocate for the Respondent No.2- Victim. With the assistance of the learned Advocate for the parties and the learned APP, I have gone through the evidence.

4. The Victim though was below 18 years, was 16 years and 11 months old at the time of incident. Her evidence show that her testimony in respect of forcible physical relations by the Applicant – Appellant with her was not corroborated by her previous statement. Her Cross-examination clearly indicate that she was in love affair with the Applicant – Appellant and eloped with the Applicant – Appellant. She stayed for some days with the Applicant – Appellant. She was studying in the 11th standard. *Prima facie* it appears that the Victim was of the age of understanding.

5. Though the Prosecution has relied on the DNA Report, the evidence on record do not establish handling of the chain of DNA samples, right from the taking samples till the Report of the Chemical Analyzer. In absence of the evidence to establish the chain of handling of DNA samples, *prima facie* the DNA Report cannot be taken into consideration.

6. The Sentence imposed on the Applicant – Appellant is a term sentence of 10 years, out of which the Applicant – Appellant has already undergone little over 3 years of imprisonment. The Appeal is recently

admitted and there is no possibility that the Appeal would come for final hearing in the near future. The Applicant – Appellant is having *prima facie* good case on merits and hence, I proceed to pass the following order.

ORDER

- (i) The Application is allowed.
- (ii) The substantive Sentence imposed by the learned Additional Sessions Judge, Jalna in Spl. Case (Child) No.6/2018 *vide* Judgment and Order dated 13.10.2022 on the Applicant, by name, Ganesh Baburao Jahar, is suspended during pendency of the Appeal.
- (iii) Applicant - Ganesh Baburao Jahar 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 shall co-operate in early disposal of the Appeal.
- (v) Bail before the Trial Court.
- (vi) The fees of the learned Advocate appointed to represent Respondent No.2 – Victim is quantified at Rs.7,000/- (Rs. Seven Thousand), which shall be paid by the High Court Legal Services Sub-Committee, Aurangabad Bench.
- (vii) Application stands disposed off.

(NEERAJ P. DHOTE, J.)