



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

909 CRIMINAL APPLICATION NO.3416 OF 2025
IN
CRIMINAL APPEAL NO.666 OF 2025

Kiran Bhanudas Nikalje

...Applicant

Versus

The State of Maharashtra And Another

...Respondents

.....

Shri. Satej S. Jadhav, Advocate for the Applicant

Ms. A. S. Deshmukh, APP for the Respondent – State.

Ms. Divya Khandelwal, Advocate for the Respondent No.2 through V.C.
(appointed through legal aid)

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CORAM : NEERAJ P. DHOTE, J.

Dated : NOVEMBER 06, 2025

PER COURT :-

. This is the Application for Suspension of substantive Sentence and Bail.

2. Heard the learned Advocate for the Applicant – Appellant, the learned APP for the State and the learned Advocate for the Respondent No.2 – Victim.

3. The Applicant – Appellant is convicted by the learned Special Judge (POCSO Act), Aurangabad, in Special Case No. 140/2022 by the Judgment and order dated 20.08.2022, as follows :

“1] Accused Kiran Bhanudas Nikalje is hereby convicted for the charge under section 506 of the Indian Penal Code and section 8 and 12 of the Protection of Children From Sexual Offences Act, 2012 as per section 235(2) of the Code of Criminal Procedure.

2] *The accused is sentenced to under go sentence of two years rigorous imprisonment for the offence under section 506 of Indian Penal Code.*

3] *The accused is sentenced to under go sentence of five years rigorous imprisonment for the offence under section 8 of Prevention of Children From Sexual Offences Act, 2012 and pay a fine of Rs.20,000/- (Rs.Twenty thousand only).In default of payment of fine the accused shall undergo sentence of one month simple imprisonment.*

4] *The accused is sentenced to under go sentence of two years rigorous imprisonment for the offence under section 12 of Prevention of Children From Sexual Offences Act, 2012 and pay fine of Rs.20,000/- (Rs.Twenty thousand only).In default of payment of fine the accused shall undergo sentence of one month simple imprisonment*

5] *All the sentences shall run concurrently.*

6] *The accused shall be given the benefit of set off under section 428 of Cr.P.C.*

7] *The accused shall surrender to his bail bonds.*

8] *The accused is informed about his right to appeal.*

9] *The true copy of this judgment be given to the accused free of cost.*

10] *The authentic copy of the judgment be sent to the victim-boy and DLSA, Aurangabad.*

11] *R & P of Special case No.140/2022 be consigned to Record Room, Aurangabad.*

12] *Special case No. 140/2022 stands disposed off.”*

4. The case of the Prosecution, in brief, is that, the Victim was aged 16 years and was residing as a tenant in the house of the Applicant – Appellant. The Applicant – Appellant used to tease him by saying that he belongs to third gender. The Victim’s Mother went to the house of the Applicant – Appellant and gave them understanding and quarrel had taken place on that point. The Applicant – Appellant continued to tease the Victim. On 02.11.2021 one incident of assault took place. In the month of December – 2021, when the Victim was going to school, the Applicant – Appellant caught hold his hand and winked eye to the

Victim and kissed him on his lips and threatened him to commit Rape. The incident was reported to the Police and Crime bearing No.75/2022 came to be registered with the Sillod (Rural) Police Station for the offence punishable under Section 506 of the I.P.C., and Sections 8 and 11 (i)(iv) r/w. 12 of the POCSO Act. After filing of the Charge-sheet, the Applicant – Appellant came to be tried and convicted as above.

5. From the cross-examination of the Victim, it is seen that, they were tenants in the house of the Applicant- Appellant and relations between the Victim's Mother and the tenants were not cordial. There are suggestions given in the cross-examination that the Victim's Sister was having love affair with the tenant of the Applicant – Appellant. The incident is of December – 2021. Undisputedly, the Report is lodged on 15.03.2022 i.e. after a period of three (3) months. In the Cross-examination of the Victim, it has come that, from January – 2022 till lodging of the Report i.e. 15.03.2022 he was doing the day to day work. This shows that the Applicant – Appellant is having a good case on merits. The Appellant – Applicant was on bail during the Trial. The Appel is not yet admitted and it will not come up for final hearing in the near future. Section 8 of the POCSO Act provides for minimum sentence of three years and maximum sentence of 5 years. In this view of the matter, I proceed to pass the following order.

ORDER

- (i) The Application is allowed.
- (ii) The substantive Sentence imposed by the learned Special Judge (POCSO Act) Aurangabad in Special Case No.140/2022 *vide* the Judgment and order dated 20.08.2022 on the Applicant, by name, Kiran Bhanudas Nikalje, for the offence punishable under Section 506 of the Indian Penal Code and Sections 8 and 12 of the Protection of Children from Sexual Offences Act, 2012, is suspended during pendency of the Appeal.
- (iii) Applicant - Kiran Bhanudas Nikalje 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. Divya Khandelwal appointed through legal aid to represent Respondent No.2 is quantified at Rs.7,000/- (Rs. Seven 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.)