



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

**CRIMINAL APPLICATION NO. 4187 OF 2024
IN APPEAL/916/2024**

. Suresh Ransing Pawar
Age: 24 years, Occu.: Labourer,
R/o. Kurhavad, Tal.Shahada,
Dist.Nandurbar.Applicant

Versus

1. The State of Maharashtra
through Police Station Sarangkheda,
Tq.Shahada, Dist.Nandurbar.
2. XYZRespondents

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Advocate for Applicant : Mr.Mohanish Thorat
APP for Respondent no.1 : Mr.N.D.Batule
Advocate for Respondent no.2 : Ms. Pratibha Suryawanshi
(appointed)

...
CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 08 APRIL, 2025
PRONOUNCED ON : 09 APRIL, 2025**

ORDER :-

1. Present application is for suspension of sentence and grant of bail on account of conviction recorded by learned Judge, Special Court under POCSO Act & Additional Sessions Judge, Shahada, in Special Case (POCSO) No.47 of 2020.

2. Learned counsel submitted that applicant was tried vide above Special Case and held guilty and is sentenced to suffer rigorous imprisonment for five years and ten years respectively for offence under Section 366 of the Indian Penal Code (IPC) and under Section 6 of the Protection of Children from Sexual Offences Act (POCSO Act). Learned counsel submitted that victim is 16 years of age, but there is no legally acceptable proof. That, there is delayed FIR. That medical evidence is not conclusive. That, there is no independent witness. That, implication is out of rivalry and therefore, according to learned counsel, conviction ought not to have been recorded. That the impugned judgment has been challenged and applicant is every hope of succeeding in appeal. He pointed out that applicant was on bail during trial and according to him, appeal would take long time to be heard and decided. Therefore, he urges for relief of suspension of substantive sentence and grant of bail.

3. Learned APP as well as learned counsel for respondent no.2 opposed application on the ground that victim is proved to be a minor. That, serious offence is committed. That, there is statement of victim before the Court, which has remained unshaken. That, there is cogent and reliable evidence. That, offence is proved by way

of medical evidence and therefore, they both opposed the relief.

4. After considering the above submissions and on going through the papers, it seems that applicant was chargesheeted by Sarangakheda Police, Tq.Shahada, District Nandurbar for offence under Sections 363, 366, 376 of the IPC and under Sections 4 and 6 of the POCSO Act. Trial was undertaken on the strength of eleven witnesses. Apart from informant and victim, there are four witnesses and two medical experts. On going through the evidence of victim PW2, it appears that victim is shown to have studied upto 5th Standard and prosecution claims that she is below 15 years of age. In paragraph 18 of the judgment of the learned trial Court, there is discussion about age of victim. On appreciation of evidence, in paragraph no.31 of the judgment, learned trial Court has recorded finding that victim is proved to be a minor.

Therefore, considering the quality of evidence adduced by the prosecution in the trial Court wherein victim's evidence has remained unshaken and gaining support from medical evidence, though applicant was on bail during trial, this Court is not inclined to grant relief as prayed for.

ORDER

- (i) Criminal Application No.4187 of 2024 is rejected.
- (ii) Fees of the learned counsel appointed to represent respondent no.2 is to be paid through the High Court Legal Services Sub-Committee, Aurangabad, as per Rules.

(ABHAY S. WAGHWASE)
JUDGE

SPT