



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

**CRIMINAL APPLICATION NO. 4620 OF 2024
IN APPEAL/1004/2024**

Satish Dilip Khandagale (Khandale)

Age: 27 years, Occu.: Agriculture,

R/o. Lakha, Tq.Kaij, Dist.Beed.

....Applicant

Versus

1) The State of Maharashtra

2) XYZ

.....Respondents

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Advocate for Applicant : Ms.Ashwini Annasaheb Lomte

APP for Respondent no.1 : Mr.C.V.Bhadane

Advocate for Respondent no.2 : Ms.Rani Bharuka Bora (appointed)

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CORAM : ABHAY S. WAGHWASE, J.

DATE : 04 FEBRUARY, 2025

ORDER :-

1. Instant application is for suspension of sentence and grant of bail on account of conviction recorded by learned Special Judge, Kaij, Dist.Beed, in Special (POCSO) Case No.11 of 2023.

2. Learned counsel submitted that applicant was booked for commission of offence under Sections 363, 366-A, 376(2)(n)(f)

of the Indian Penal Code (IPC) and under Sections 3, 4 and 5(n) of the Protection of Children from Sexual Offences Act (POCSO Act). That, he was tried by the learned Special Judge and by judgment and order dated 08-11-2024, he is held guilty and is sentenced to suffer imprisonment for 20 years, 10 years and 5 years and 1 year respectively for each of the offences. That, said judgment and order of conviction has been challenged by filing appeal bearing no.1004 of 2024 and it will take long time to be heard. She further pointed out that during the trial, applicant was on bail. That, initially there was only allegation of kidnapping, however, subsequently report has been lodged resulting into addition of offence. That, applicant and victim are relatives. That, she has received information that matter would be compromised being relatives. However, on account of above application, learned counsel seeks relief of suspension of sentence and grant of bail.

3. Learned APP as well as learned counsel for the victim both have strongly opposed the above application on the ground that accused was married. He was knowing victim to be a minor.

That, being a relative, still he sexually exploited her. That, there are charges of offence under the provisions of the POCSO Act. Moreover, applicant, while on bail, has also threatened informant to withdraw the proceedings and as such, both learned APP as well as learned counsel for victim urged to reject the application.

4. After hearing both the sides and on going through the papers, it is emerging that Crime no.14 of 2018 was registered on report lodged by father of victim. After investigation, applicant was chargesheeted and tried. Victim is stated to be of 17 years and 11 months of age. As pointed out, present applicant is in relation. He is said to be married but a divorcee. Victim, who has deposed as PW2 has testified that on 14-01-2018 applicant had sexual intercourse with her near the river and even suggested victim that they should run away and perform marriage. Victim, who is shown to be a minor on the date of occurrence, was with the applicant for more than six months. In support of age of victim, prosecution seems to have examined PW5 Saruk, Principal of Z.P. School, Lakha, who has

placed on record extract of admission register regarding date of birth. Therefore, there is documentary evidence about age. After considering the same and on appreciating the prosecution evidence including that of informant, conviction has been recorded. Taking gravity of the offence into consideration, this Court is not inclined to grant relief as prayed. Hence, the following order :

ORDER

(I) Criminal Application is rejected.

(II) Fees of the learned Advocate appointed to represent respondent no.2 / victim is to be paid through the High Court Legal Services Sub-Committee, Aurangabad.

(ABHAY S. WAGHWASE)
JUDGE