



IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4786 OF 2024  
IN  
CRIMINAL APPEAL NO. 1033 OF 2024

Shivaji S/o. Karbhari Shinde,  
Age : 36 years, Occu. : Business,  
R/o. Hamdpur, Tq. Manwat,  
Dist. Parbhani.

... Applicants  
(Orig. Accused)

Versus

1. The State of Maharashtra,  
Through Police Station Officer,  
Police Station, Manwat,  
Tq. Manwat, Dist. Parbhani.

2. X.Y.Z.

... Respondents

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Mr. Rahul D. Khadap, Advocate for Applicant  
Mr. S. B. Narwade, APP for Respondent – State  
Ms. Falguni Kulkarni, Advocate for Respondent No.2 (Appointed)

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

**RESERVED ON : 08 JANUARY 2025**

**PRONOUNCED ON : 10 JANUARY 2025**

**ORDER :-**

1. This is an application for suspension of sentence and grant of bail on account of conviction recorded by learned Special Judge, Parbhani in Special Case No. 87 of 2023 vide order dated 11.11.2024.

2. Learned counsel for applicant submitted that, applicant is held guilty for offence punishable under section 8 of the Protection of

Children from Sexual Offences Act, 2012 (POCSO Act), under section 506 of Indian Penal Code and he is sentenced to suffer three years and six months imprisonment, respectively. That, he was on bail during trial and even after conviction, learned trial court was pleased to suspend the sentence. That, fine amount is already paid. That, appeal has been preferred against the said impugned judgment of conviction. However, it being of 2024 and according to learned counsel, as there are no immediate prospects of hearing the appeal, he urged for suspension of sentence and grant of bail.

3. Strongly opposing the above application, learned APP as well as learned counsel for victim would point out that victim is barely 12 years and some months old. Her evidence has remained unshaken and is accepted by learned trial court. Considering the gravity of offence, both, learned APP and learned counsel prays for rejection of application.

4. After considering the submissions and on going through the statement of victim, nature of allegations that applicant touched her inappropriately on the pretext of taking her measurement for clothes and also taking into account that during trial applicant was on bail and further as there are no immediate prospects of hearing the

appeal, which is of 2024, relief as prayed deserves to be granted.

Hence, the following order is passed :-

### **ORDER**

- I. Criminal Application stands allowed.
- II. The substantive sentence imposed on the applicant Shivaji S/o. Karbhari Shinde in Special Case No. 87 of 2023 by learned Special Judge, Parbhani on 11.11.2024 stands suspended till the final hearing and disposal of Criminal Appeal No.1033 of 2024.
- III. The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with two solvent sureties in the like amount.
- IV. The applicant shall not commit any criminal activity.
- V. The applicant shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.
- VI. In case of two consecutive defaults on the part of the applicant to remain present before the trial court, the trial court to inform this court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of bail granted to the applicant.
- VII. Bail before the trial court.

VIII. Fees of learned Advocate, who is appointed to represent cause of respondent no.2 is to be paid by the High Court Legal Services Sub-Committee, Aurangabad as per rules.

**[ABHAY S. WAGHWASE, J.]**

*Tandale*