



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

904 CRIMINAL APPLICATION NO. 4200 OF 2023
IN APEAL/1113/2023

1. RAJU LAXMAN SOLASE,
2. SATISH UTTAM KANGARE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. S. S. Jadhav h/f. Mr. Dhananjay Shrikant Patil, Advocate for Applicants;

Mr. A. D. Wange, APP for Respondent-State.

Mr. Mayur B. Borse, Advocate for Respondent Nos.2.

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CORAM : NEERAJ P DHOTE, J.

DATE : 14th NOVEMBER, 2025

PC.:-

1. This is a joint application filed by the convicts seeking suspension of sentence. They have been convicted by the learned Additional Sessions Judge and Special Judge (POCSO), Vaijapur in Special Case No.119 of 2021 for the offences punishable under Section 6 of Protection of Children from Sexual Offences Act, 2012 (POCSO) and sentence to undergo rigorous imprisonment for 20 years and to pay a fine of Rs.10,000/- each, in default to suffer rigorous imprisonment for one year. They are further convicted for the offences punishable under Section 323, 342 read with 34 of IPC and sentenced to suffer rigorous imprisonment for one year for each of the said offences, by judgment and order dated 23rd October 2023.

2. Heard learned Advocate for the Applicants, learned APP for the Respondent-State and learned Advocate for Respondent No.2-Victim.

3. Learned Advocate for the Applicants submits that for the present, he was not pressing the application insofar as Applicant No.1-Raju Laxman Solase is concerned. He submits that the only evidence against Applicant No.2 – Satish Uttam Kangare is in the form of a material omission in the evidence of PW-2, who is not an eye-witness to the incident and claims to have learnt about the incident from the victim. It is submitted that the said material omission has been proved through the Investigating Officer, who recorded the statement. Except for this, there is no other evidence against Applicant No.2. It is contended that he has a good case on merits, which may result in acquittal. Applicant No.2 is in custody since 14th May 2022. Hence, it is submitted that the application be allowed to the extent of Applicant No.2.

4. The application is opposed by the learned APP and learned Advocate for Respondent No.2 – Victim. They submit that the victim was aged 12 years. Though the victim has not supported the prosecution during trial, her statement under Section 164 of Cr.P.C. implicates Applicant No.2. Further, the evidence of the victim stands

corroborated by PW-2. Considering the serious nature of the offence and proper appreciation of evidence by the Trial Court, the conviction is justified. Therefore, the application deserves to be rejected.

5. It is undisputed that the victim did not support the prosecution case. The only evidence against Applicant No.2 – Satish is the testimony of PW-2, who is the aunt of the victim. In her evidence, she deposed that on 29th October 2021, the victim came to her house and stated that Applicant No.2 – Satish took her to his house and asked her to massage his private part by applying coconut oil. However, the cross-examination of PW-2 and PW-8, the Investigating Officer, demonstrates that this portion of PW-2's evidence is a material omission. Except for this, there is no evidence against Applicant No.2 – Satish.

6. In view of the above, I find substance in the contention of the learned Advocate for the Applicant that the Applicant has a good case on merits. Applicant No.2 is behind bars for a period little over three years and the appeal is not likely to be heard in the near future. Hence, I proceed to pass the following order:-

ORDER

- (i) The application to the extend of Applicant No.1-Raju
Laxman Solase stands dismissed as withdrawn.

- (ii) The application to the extend of Applicant No.2 - Satish Uttam Kangare is allowed.
- (ii) The sentence imposed by the learned Additional Sessions Judge and Special Judge (POCSO Act) Vaijapur, District Ch. Sambhajinagar in Special Case No.119/2021 vide the Judgment and order dated 23rd October 2023 against the Applicant No.2, Satish Uttam Kangare, for the offence punishable under Section 323, 342 read with 34 of the Indian Penal Code and Section 6 of (POCSO Act), is suspended during pendency of the Appeal.
- (iii) Applicant No.2 – Satish Uttam Kangare 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) Bail before the Trial Court.
- (v) The Applicant No.2 shall co-operate in early hearing of the Appeal.
- (vi) Fees of the learned Advocate Mr. Mayur B. Borse 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.)

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