

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3092 OF 2025
IN
CRIMINAL APPEAL NO. 694 OF 2023

Dipak @ Badal Dilip Pawar

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Vaibhav R. Gargade a/w Mr. Abhijeet Chabukswar, Mr. Rakesh Shinde, Advocate for the Applicant.

Ms. Swaranjali S. Raktade, Advocate for Respondent No.2.

Mr. Nitin. B. Patil, APP for the Respondent-State.

CORAM : SHIVKUMAR DIGE, J.

DATE : 3rd DECEMBER, 2025.

PC.

1. By this application the applicant is seeking suspension of sentence imposed vide Judgment and Order by the learned Additional Sessions Judge, Solapur in Special Case No. 23 of 2019.

2. It is contention of learned counsel for applicant that applicant has been convicted for offence punishable under Section 363 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for three years and fine of Rs. 3,000/-, in default of payment of fine, to suffer simple imprisonment for three months. He

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is further convicted for offence punishable under Section 366A of Indian Penal Code and sentenced to suffer rigorous imprisonment for three years and fine of Rs. 3,000/-, in default of payment of fine, to suffer simple imprisonment for three months. He is further convicted for offence punishable under Section 4 of Protection of Children from Sexual Offences Act, 2012 ('POCSO Act') and sentenced to suffer rigorous imprisonment for ten years and fine of Rs. 10,000/-, in default of payment of fine, to suffer simple imprisonment for six months.

3. It is contention of learned counsel for applicant that while passing the order, the learned Sessions Court has observed that relations between the applicant and victim were consensual and considering the age of the applicant, the Tribunal has imposed minimum punishment as per provisions of the POCSO Act i.e. for 10 years, but the offence was registered on 6th January 2019 and as per provisions of the POCSO Act, on that day, the minimum punishment is of 7 years. Thereafter, the amendment was carried out in POCSO Act on 16th August 2019 and as per the amended provision, minimum punishment is provided for 10 years. Applicant is behind bar for more than 3 years and 6 months. Hence, requested to allow the application.

4. It is contention of learned APP alongwith learned counsel for respondent no. 2 that the applicant sexually assaulted the victim who was minor. Prosecution has proved its case beyond doubt. If applicant is released on bail, he may abscond and requested to reject the application.

5. I have heard all the learned counsels, perused impugned Judgment and Order. The learned Trial Court while passing the order has observed that the relation between the applicant and victim were consensual and he has imposed minimum sentence of 10 years but the offence was registered against the applicant in the month of January 2019. Before the amendment, minimum punishment was of 7 years. If it is considered, applicant is behind bar for more than 3 years and 6 months i.e. he has undergone more than half of the sentence. He has no antecedents. He is karta of his family. During trial, he was on bail. He has not misused liberty.

6. Considering these facts, I pass following order:

ORDER

I. The application is allowed.

II. The substantive sentence of imprisonment awarded to the applicant by Judgment and Order by the learned Additional Sessions

Judge, Solapur in Special Case No. 23 of 2019 is hereby suspended pending disposal of appeal.

III. The applicant be enlarged on bail on furnishing PR bond in the sum of Rs. 15,000/- with one or two sureties in the like amount.

IV. The bail bonds to be furnished before Judgment and Order by the learned Additional Sessions Judge, Solapur.

V. The application is disposed off accordingly.

(SHIVKUMAR DIGE, J.)