

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION
INTERIM APPLICATION NO. 3491 OF 2025
IN
CRIMINAL APPEAL NO. 901 OF 2025

Manohar Alias Aditya Arun Sawant ...Applicant
Versus
The State of Maharashtra ...Respondent

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Mr. Sangram Desai a/w Mr. Advait Vajaratkar i/b Mr. Abhishek Nandimath for the applicant
Dr. A. A. Takalkar, APP for the respondent-State
Adv. Meher Malik for respondent no. 2
D.B. Shetye, Nivati Police Station

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CORAM : SHIVKUMAR DIGE, J.
DATE : 11th DECEMBER 2025

P.C.

1. By this application the applicant is seeking suspension of sentence imposed by the learned Special Judge, Sindhudurg in Special Case No. 40 of 2021 vide order dated 25th July 2025.

2. It is contention of learned counsel for applicant that applicant has been convicted for offence punishable under Section 6 and 5 of The Protection of Children from Sexual Offences Act, 2012 (POCSO) and is sentenced to suffer rigorous imprisonment for 20 years and fine of Rs. 25,000/-, in default of payment of fine, to suffer

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simple imprisonment for three months. He is further convicted for offence punishable under Section 506 of the Indian Penal Code and sentenced to suffer rigorous imprisonment for one year and fine of Rs. 5,000/-, in default of payment of fine, to suffer simple imprisonment for one month. He is further convicted for offence punishable under Section 376(2)(n) of the Indian Penal Code, however, in view of Section 42 of the POCSO, as the accused is sentenced under Section 6 of the POCSO, no separate sentence is awarded under this Section.

He is further convicted for offence punishable under Section 4 and 8 of POCSO and under Section 354-B of the Indian Penal Code, however, in view of the provisions of Section 71 of the Indian Penal Code and Section 42 of the POCSO, as the accused is punished under Section 6 of the POCSO, being a minor offence of that Section, no separate sentence is awarded under these sections.

3. It is contention of learned counsel for applicant that there was love affair between the applicant and first informant. The physical relation between them was consensual. The Special Court has not considered this fact. Applicant is behind bar for more than 5 months. The applicant was on bail during the trial. Hence, requested

to allow the application.

4. It is contention of learned APP and learned counsel for respondent no. 2 that the applicant sexually assaulted the victim who was below 18 years of age. The prosecution has proved the case beyond the reasonable doubt. If applicant is released on bail, he may abscond, threaten prosecution witnesses and requested to reject the application. The Special Court has passed well reasoned order and no interference is required in it. Hence, requested to reject the application.

5. I have heard both learned counsels, perused impugned Judgment and Order. Perusal of the evidence of the victim-PW 1 shows that at the time of incident, she was 17 years old and she has stated that she had physical relationship with the applicant on several occasions with her consent and she never opposed to the applicant for physical relationship. The Special Court has convicted the applicant for 20 years on the ground that at the time of incident, victim was below 16 years of age but from the evidence of the victim, it shows that at the time of incident, she was 17 years old. The applicant was on bail during the trial. At the time of incident, victim was more than 17 years old, she had consensual relationship with the applicant. The

applicant is 27 years old. It may take time to dispose of the appeal and I pass the following order:

ORDER

- I. The application is allowed.
- II. The substantive sentence of imprisonment awarded to the applicant by the learned Special Judge, Sindhudurg in Special Case No. 40 of 2021 vide order dated 25th July 2025 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.
6. The bail bonds to be furnished before the Special Judge, Sindhudurg.
7. Professional fees of Rs. 10,000/- to be paid to learned counsel appointed through Legal Aid for respondent no. 2.
8. The application is disposed off accordingly.

(SHIVKUMAR DIGE, J.)