

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 3495 OF 2025
IN
CRIMINAL APPEAL NO. 388 OF 2023

Nagesh Hambirrao Howal ...Applicant
Versus
The State of Maharashtra & Anr. ...Respondents

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Mr. Kuldeep Nikam, Advocate for Applicant.

Ms. Bhargavi Patil, appointed Advocate for Respondent No.2 through legal aid.

Mr. P. P. Deokar, APP for the Respondent No.1-State.

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CORAM : SHIVKUMAR DIGE, J.

DATE : 12th DECEMBER 2025

PC.

1. By this Application, the applicant is seeking suspension of sentence and grant of bail.

2. It is contention of learned counsel for the Applicant that applicant was convicted by the learned Extra Joint District Judge and Additional Sessions Judge, Sangli in Special Case (POCSO) No.36 of 2016 vide order dated 16.02.2023 for the offence punishable under Section 376(2)(n)(i) and 506 of Indian Penal Code and Section 6 of the Protection of Children From Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for ten years and to pay

fine amount of Rs.30,000/-, in default, to suffer further rigorous imprisonment for one year.

3. It is contention of learned counsel for the applicant that the age of the victim was not proved before the trial Court. The complaint was lodged by the social worker. Learned counsel further submitted that the mother of victim has specifically admitted in the cross examination that her first daughter's date of birth was on 11th August, 1994 and after two years of her birth, the victim was born, so it shows that on the day of incident, the victim was major but this fact is not considered by the trial Court. The applicant is behind bar for more than three years out of ten years. He has no antecedents. The applicant is Karta of his family. It may take time to dispose off the appeal and requested to allow the application.

4. It is contention of learned APP along with learned counsel for Respondent No.2 that the applicant repeatedly sexually assaulted the victim. He is the relative of victim. The applicant was aware about the age of victim. The trial Court has dealt with all the issues and has passed well reasoned order. If applicant is released on bail, he may abscond and requested to reject the application.

5. I have heard all the learned counsels. The birth certificate of the victim is produced but it is not proved. The mother of the

victim in her cross examination has admitted that the victim is her second daughter and her first daughter's birth date was of the year 1994 and after two years the victim was born. If it is considered, it shows that the victim was major at the time of incident. But this fact is not considered by the learned trial Court. The applicant is behind bar for more than three years out of 10 years. The applicant has undergone substantial sentence of imprisonment. He is the Karta of his Family. It may take time to dispose off the appeal. Considering these facts, I pass following order:

ORDER

- (i) The Application is allowed;
- (ii) The substantive sentence of imprisonment awarded to the applicant by the learned Extra Joint District Judge and Additional Sessions Judge, Sangli in Special Case (POCSO) No.36 of 2016 vide order dated 16.02.2023 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 the learned District Judge and Additional Sessions Judge, Sangli

6. The application is allowed in the aforesaid terms and is accordingly disposed off.

7. As the learned counsel for the Respondent No.2 is appointed through legal-aid, professional Fees of Rs.10,000/- be paid to her.

(SHIVKUMAR DIGE, J.)