

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**INTERIM APPLICATION NO.1210 OF 2025
IN
CRIMINAL APPEAL NO.1307 OF 2022**

Akash Kanhaiya Lonare Applicant

V/s.

The State Of Maharashtra And Anr Respondents

Mr.Narayan Rokade a/w Mr.Ramchandra Wagh and
Mr.Siddharth Ghodke and Mr.Abhang Suryawanshi, for the
Applicant.

Mr.P.P. Deokar, APP, for Respondent-State.

Ms.Komal Sinha, for Respondent No.2.

CORAM : SHIVKUMAR DIGE, J.

DATE : 02nd MAY 2025

P.C:-

. Heard learned counsel for the Applicant, learned
APP and learned counsel for Respondent No.2

2. This Application is preferred by Applicant (Accused)
for suspension of sentence.

3. The Applicant is convicted by the Special Court
(POCSO), Nashik. The Applicant is convicted for the offences
punishable under Sections 376(2)(n) of the Indian Penal Code,

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1860 ('IPC' for short) and under Sections 6 read with Section 5 of the the Protection of Children From Sexual Offences Act, 2012 ('POCSO' for short) and sentenced to suffer RI for 10 years and fine of Rs.10,000/- in default to suffer simple imprisonment for one year. No separate sentence is passed under Section 6 read with section 5 of the POCSO Act. For the offences punishable under Section 363 he sentenced to suffer RI for 2 years and pay fine of Rs.5,000/- in default to suffer SI for the period of three months. For the offence punishable under Section 506 of the IPC he sentenced to suffer RI for one year and pay fine of Rs.3,000/- in default to suffer SI for the period of three months. All these sentences are to run concurrently.

4. It is prosecution's case that, the Applicant had kidnapped the daughter of first informant who was 14 years and 6 months old, at the time of the incident. After kidnapping he married with her at one temple and sexually assaulted her.

5. To prove its case prosecution has examined 10 witnesses.

6. It is contention of the learned counsel for the

Applicant that, at the time of the incident the Applicant was 19 years old. There was love affair between Applicant and victim out of that love affair victim had eloped with the Applicant. There was marriage between the Applicant and victim and after marriage there was physical relationship between Applicant and victim. The first informant has turned hostile and she has not supported the prosecution case.

7. The victim in her cross-examination has admitted that, she herself gone with the Applicant and she did not make hue and cry when going with the Applicant. She further admitted that, the Applicant sexually assaulted her after marriage only. It proves the Applicant's case that, there was love affair between the Applicant and victim, but this fact was not considered by the learned Special Court. The learned counsel further submitted that, the Applicant is behind bar more than 3 years out of 10 years at the time of the incident he was 19 years old. Considering these facts, he requested to suspend the sentence and Applicant be released on bail.

8. It is contention of the learned APP along with

learned counsel for Respondent No.2 that, the Applicant kidnapped victim who was 14 years and 6 months old. The Applicant was aware that, she was minor in spite of that he sexually assaulted her. The victim has supported prosecution case. The medical evidence produced on record shows that, she was sexually assaulted, the prosecution has proved the case beyond reasonable doubt. The Applicant has not completed half of the sentence imposed on him. If Applicant released on bail he may abscond and requested to reject the Application.

9. I have heard all learned counsel. Perused impugned judgment and order and deposition of witnesses produced on record.

10. The first informant mother of the victim has turned hostile and she has not supported the prosecution's case. The victim has supported the prosecution case but in cross-examination she has admitted that, the place where the Applicant sexually assaulted her was crowded place. The Applicant did not force her to sit on the motorcycle. She did not make hue and cry when she was in public place with Applicant. She further

admitted that, the Applicant sexually assaulted her only when he married with her. Applicant was 19 years old, at the time of the incident. It appears that, the incident happened out of the love affair. The Applicant is behind bar more than three years out of the 10 years. It may take time to decide the Appeal finally. Considering these facts, I pass following order.

ORDER

- (i) The substantive sentence of imprisonment awarded to the applicant is hereby suspended pending disposal of the appeal, subject to the applicant furnishing a PR bond in the sum of Rs.10,000/- with one or two sureties in the like amount.
- (ii) The bail bonds to be furnished before the learned Special Judge/Sessions Judge.
- (iii) The Criminal Application is disposed of.

(SHIVKUMAR DIGE, J.)