

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2160 OF 2025

IN

CRIMINAL APPEAL NO. 623 OF 2025

Bhaves @ Udaylal Nanalal Teli

... Applicant

Versus

State of Maharashtra & Anr.

... Respondents

.....

Mr.Chandrakant Hode a/w. Ms. Neha Pokal, Limna Prakashan, Advocates for the Applicant.

Mr. S.S.Ghag, APP for the State.

Ms. Aishwarya Sharma, Advocate for Respondent No.2.

CORAM : R. M. JOSHI, J.

DATED : 18th NOVEMBER, 2025.

P.C. :

1. This application is for enlargement of bail of the appellant and suspension of substantive sentence passed in Sessions (POCSO) Case No. 380 of 2018 passed by Additional Sessions Judge, Nashik in Judgment and Order dated 15.05.2025 whereby the appellant is sentenced to suffer 20 years imprisonment with fine.

2. Learned counsel for the appellant submits that the appellant was on bail during the course of the trial. It is his further submission that the identity of the appellant as the perpetrator of the crime is in dispute as the Investigating Agency has not taken care to bring on record the correct name of the accused / appellant. It is his submission that owing to the

evidence on record it cannot be said the certainty that the victim was not of age of maturity. He drew attention to the statement of the victim which according to him indicates that the victim had taken entire initiative without any allurements the appellant. It is further argued that the prosecution has failed to collect the possible evidence i.e. CDR in order to connect the appellant with this crime. It is also argued that the age of victim has not been proved conclusively for want of examining proper witness. Thus it is his submission that thus the appellant has reasonable case of success on merit, application be allowed.

3. Learned counsel for the appellant has drawn attention of the Court to the evidence of the Medical Officer which according to him indicates that injuries are 24-36 hours old which is not existent with the allegation of the prosecution.

4. Learned counsel for respondent No.2 and learned APP opposed the application essentially on the ground that the victim was minor and her consent for sexual relationship becomes immaterial. It is argued that the identity of the accused was never in dispute as the victim and the accused were known to each other. It is submitted that the birth certificate of the victim is proved through the father and since it was obtained prior to three years of the lodging of the report, correctness or otherwise thereof cannot be doubted. In any case, it is their submission that since the offence is

serious in nature and hence appellant is not entitled for bail.

5. It is not in dispute that the appellant was on bail during the trial. Prima facie perusal of the evidence indicates that there is consistency with regard to the age of the victim as sought to be proved before the Trial Court. Prima facie this Court finds substance in the consideration of learned counsel for appellant that apart from this from the evidence of the victim herself it cannot be said that she was of immature age and was not able to understand consequences of her own acts. In such circumstances, it cannot be said that the appellant would have not any chance of success in the appeal. The appellant has no criminal history. The appeal is not likely to be taken up for hearing in a short period of time hence following order:

- (i) The application stands allowed.
- (ii) The substantive sentence imposed against the appellant by the Judgment and Order dated 15.05.2025 passed in Sessions(POCSO) Case No. 380 of 2018 stands suspended.
- (iii) The appellant be enlarged on bail on furnishing P.R. Bond of Rs.15,000/- with one surety in the like amount.
- (iv) Appellant not to contact victim or her family members in any manner whatsoever.

- (v) Any breach of conditions above would lead to taking appellant in custody and undergo remaining sentence.

8. The application stands disposed of.

SONALI
SATISH
KILAJE

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by SONALI
SATISH KILAJE
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(R. M. JOSHI, J.)