

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2932 OF 2025

IN

CRIMINAL APPEAL NO. 900 OF 2025

Prashant Dada Shendge

... Applicant

Versus

State Of Maharashtra And Anr

... Respondents

Mr. Ranjeet M. Pawar, Advocate for the Applicant.

Mr. Chandrakant D. Mali, APP for the State.

Mr. Apoorv Singh, Advocate for Respondent No.2.

M.M.Pawar, HC/2515- Ulhasnagar Police Station.

CORAM : R. M. JOSHI, J.

DATED : 3rd November, 2025.

P.C. :

1. This application is for suspension of substantive sentence imposed against the appellant by Judgment and Order dated 06.05.2025 in POSCO Special Case No. 2 of 2025 whereby the appellant is convicted for the offence punishable under Sections 363, 366, 376(1), 376(2)(i)(j)(n) of Indian Penal Code and under Sections 4,6, 8, 10 and 12 of Protection of Children from Sexual Offences Act, 2012 (for short "POCSO Act") and sentenced to suffer rigorous imprisonment of 20 years.

2. Learned counsel for the appellant submits that the entire evidence on record indicates that the appellant has a good case on merit.

In order to support his submission, he drew attention of the Court to the cross examination of the first informant who is the uncle of the victim wherein it is stated that as on the date of occurrence of the offence victim was more than 18 years of age. It is his further submission that the evidence on record indicates that it is a case of love relations between the victim and the appellant and the victim had eloped with the appellant. He also drew attention of the Court to the evidence of the Medical Officer which according to him indicates that as per that history given thereto it was a consensual sexual relation. It is his submission that in this backdrop, the punishment imposed against the appellant would not be sustainable. It is further argued that since there is no possibility of appeal being taken up for hearing in immediate future, the appeal shall become infructuous. He further argued that during the course of trial the appellant was on bail and he did not misuse liberty.

3. Learned counsel for the informant has left the decision of this application to the discretion of the Court.

4. Learned APP however vehemently opposed the application by contending that there is evidence on record to indicate about the offence under the POCSO Act being committed by the appellant. It is his submission that the evidence in the form of School Leaving Certificate indicates that the victim was below 18 years and as such considering the

medical evidence the offence is proved against him, as no consent of the minor is relevant. Learned APP has placed reliance on the Judgments of Hon'ble Supreme Court in Criminal Appeal No. 263 of 2023 and Suo motu Writ Petition (C) No. 3 of 2023 with Criminal Appeal No. 1451 of 2024, in order to argue that since the age of the victim is below 16 years, the appellant is not entitled to be released on bail on suspending sentence.

5. *Prima facie* perusal of the record even ignoring the admission of the informant in cross examination regarding age of victim to be 18 years indicates that as per the prosecution's case victim was aged about 15 years and 8 months. The history given to the Medical Officer clearly indicates that the victim and the appellant were having love affair and that victim had eloped with the appellant. This court is required to take into consideration the possibility of success of the appellant in appeal and hear in this case material on record clearly indicates that there is substance in the contention of the learned counsel for the appellant that the appellant has fair chance of success in the appeal.

6. During the course of the trial the appellant was on bail and he did not abuse liberty. Though this does not become sole consideration for bail but is one of factor in favour of appellant. In the facts of the case and since appeal is not likely to be taken up for hearing. Shortly, this is a fit case to suspend the substantive sentence and release appellant on bail.

7. In view of this, following order :

ORDER

- i. The Application stands allowed.
- ii. The substantive sentence imposed against the accused in Special Case (POCSO) No. 2 of 2025 by Judgment and Order dated 06.05.2025 stand suspended till decision of appeal.
- iii. The accused shall be released on bail on furnishing P.R.Bond of Rs.15,000/- with one surety in the like amount.
- iv. Bail before the trial Court.

(R. M. JOSHI, J.)

SONALI
SATISH
KILAJE

Digitally signed
by SONALI
SATISH KILAJE
Date:
2025.11.07
10:17:07
+0700