



**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR.**

CRIMINAL APPLICATION NO.47 OF 2025

IN

CRIMINAL APPEAL NO.34 OF 2025

(Shubham Sahendra Mhaiskar Vs. State of Maharashtra)

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S. Rakshit, Advocate for the appellant.
Mr. V.A. Thakare, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 3, 2025.

By this application, the appellant is seeking suspension of sentence and releasing him on bail.

2. The appellant is convicted of the offence punishable under Section 376 of the Indian Penal Code and under Section 5 of the Protection of Children from Sexual Offences Act, 2012. After appreciating the evidence the Special Judge has convicted the present appellant for the offence punishable under Section 6 and sentenced to suffer rigorous imprisonment for 10 years and to pay fine of Rs.50,000/- in default to undergo rigorous imprisonment for one year.

3. Learned Counsel for the appellant submitted that from the evidence of the victim it reveals that there was a love affair between the victim and the accused and out of love affair there was a physical relationship. He submitted that the evidence on record sufficiently shows

the nature of the relationship which is not considered by the trial Court while convicting the appellant. The appellant has every chance of success in the present appeal. In view of that, the application deserves to be allowed.

4. Learned APP strongly opposed the application and submitted that the evidence of the victim which is corroborated by the Medical Officer and the DNA report sufficiently shows the involvement of the present appellant in the alleged crime. In view of that, the application deserves to be rejected.

5. I have heard learned Counsel for both the parties and perused the impugned judgment as well as the deposition of the victim and the medical evidence which is adduced. As far as the DNA report is concerned which goes against the present appellant but considering the evidence of the victim it reveals that the victim was communicating with him. There was love affair developed between them and out of love affair the physical relationship was developed. Thus, considering the same, the learned Counsel for the appellant has pointed out that he has many arguable points in the present appeal. The appeal would take its own time for its final disposal. In the meantime, if sentence is executed the purpose of preferring the appeal would frustrate. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order :

(i) The application is allowed.

(ii) The execution of the sentence vide order dated 18/10/2024 passed by the Special Judge (POCSO) (Court No.2), Hinganghat in Special Case No.30/2018 is hereby suspended till final disposal of the appeal.

(iii) The appellant – Shubham Sahendra Mhaikar be released on bail on executing P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty Five thousand) with one surety, in the like amount.

6. The application stands disposed of.

CRIMINAL APPEAL NO.34 OF 2025

Heard.

2. **ADMIT.**

3. Learned APP waives notice for the State.

4. Call for R. & P.

5. Place the appeal before the Court after preparation of the paper book.

(URMILA JOSHI-PHALKE, J.)