2026:BHC-AUG:47294

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 1914 OF 2026
IN CRIMINAL APPEAL NO. 366 OF 2026

Shrikrushna @ Kanha s/o Atmaram Nagargoje,
Age 25 years, Occupation Agriculture,
R/o. Nagapur, Taluka Parli Vaijnath,
District Beed. **… Applicant**

Versus

1. The State of Maharashtra
Through Officer In Charge,
Police Station Parli Rural,
District Beed.

2. X Y Z – Victim **… Respondents**

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Mr. Shrikant G. Kawade, Advocate for the Applicant.
Mrs. Chaitali Chaudhari Kutti, APP for Respondent No.1-State.
Mr. Ravi B. Gite, Advocate for Respondent No.2.

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 07.10.2026
Pronounced on : 08.10.2026

ORDER :

1. Instant application is for suspension of sentence awarded in Special Case No.02 of 2019 dated 06.05.2026 by the learned Special Judge (POCSO), Ambajogai, District Beed for offence under Section 4 of the Protection of Children from Sexual Offences Act [POCSO Act] and under Section 366 of the Indian Penal Code [IPC] and equally,

prayer is raised for grant of bail also.

2. Learned Counsel for the applicant pointed out that the applicant was tried in the aforesaid Special Case and came to be convicted for the offences punishable under Section 4 of the POCSO Act and Section 366 of the IPC. According to him, the applicant has been falsely implicated. There were love relations between the applicant and the victim. The victim had voluntarily accompanied the applicant, and therefore, there was no element of kidnapping. Learned Counsel further submitted that this Court had already suspended the sentence of the co-accused. Therefore, on the ground of parity, similar relief is sought in favour of the applicant. Learned Counsel for the applicant further pointed out that the applicant and the victim are now married and are residing happily together.

3. Learned APP for respondent No.1 opposed the application on the ground that serious offence is proved to be committed. According to learned APP, at the time of incident, victim being minor below 18 years of age, her consent, if any, is immaterial.

4. Learned Counsel for respondent No.2/victim would also submit that at the time of incident victim was minor, however, on court query, he conceded that, as on now, applicant and victim are already

married and residing together.

5. After considering the above submissions and on going through the papers, it seems that in consequence to the judgment and order of conviction dated 06.05.2026 passed by the learned Special Judge, (POCSO), Ambajogai in Special Case No.02 of 2019, appeal has been preferred and the same is pending. During pendency of the appeal, present application for suspension of sentence and grant of bail is urged for.

6. In trial Court, case of prosecution was that victim was minor. To prove the age of victim, PW5 Headmaster is examined and he seems to have placed on record school register extract and school leaving certificate. It is fairly settled position that school leaving certificate or transfer certificate is not proof of age. Above witness has admitted that he had not seen birth documents of previous school. Therefore, *prima facie*, there is no conclusive proof on the point of age. The victim, who is examined as PW3, has stated that on 22.12.2018, the accused asked her to sit on the motorcycle, as he wanted to marry her. She refused and then, she claims that he said her that if she did not accompany him, he would do something to his life. Therefore, she accompanied him, and he took her to various places, where she stayed with him until the police brought her back.

Further, it is stated that the co-accused has been granted relief of suspension of sentence and grant of bail. Statement is made across the bar by learned Counsel for applicant well as learned Counsel for victim that now, the applicant and victim are already married. Therefore, taking into consideration the same, the relief as prayed deserves to be granted. Hence, the following order is passed :-

ORDER

I. Criminal Application stands allowed.

II. The substantive sentence imposed on the applicant Shrikrushna @ Kanha s/o Atmaram Nagargoje in Special Case (POCSO) No. 02 of 2019 by the Special Judge (POCSO), Ambajogai on 06.05.2026 stands suspended till the final hearing and disposal of Criminal Appeal No.366 of 2026.

III. The applicant be released on P.R. Bond of Rs.15,000/- (Rupees Fifteen Thousand Only) with two solvent sureties in the like amount.

IV. The applicant shall not commit any criminal activity.

V. The applicant shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.

VI. In case of two consecutive defaults on the part of the applicant to remain present before the trial court, the trial court to inform

this court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of bail granted to the applicant.

VII. Bail before the trial court.

[ABHAY S. WAGHWASE, J.]

scm