



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5029 OF 2024
IN
CRIMINAL APPEAL NO. 1079 OF 2024

Sudam Kondiba Gophane

..APPLICANT

VERSUS

State of Maharashtra and Another

..RESPONDENTS

....

Mr. Suvidh S. Kulkarni, Advocate for applicant (appointed through Legal Aid)

Mr. V.K. Kotecha, A.P.P. for respondent no.1 – State

Mr. Mayur Subhedar, Advocate for respondent no.2

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CORAM : RAJNISH R. VYAS, J.

DATE : 22nd JANUARY, 2026

PER COURT :

. This is an application for grant of bail and suspension of sentence. The applicant /original accused has preferred an appeal through Legal Aid challenging his conviction under Section 8 of Protection of Children from Sexual Offences Act, 2012, by which he was directed to suffer rigorous imprisonment for three years and pay fine of Rs.3,000/-. He was also convicted for commission of offence punishable under Section 354-A(i) of the Indian Penal Code, however no separate sentence was imposed upon him. The default sentence was also imposed.

2. Learned counsel for the applicant submitted that the sentence imposed upon the applicant is of fixed term and he is duty bound to undergo

the same once the appeal is decided otherwise. He further submitted that all throughout the trial he was on bail and he did not misuse the liberty and had cooperated for early completion of trial. He submitted that after pronouncement of judgment of conviction on 23rd October, 2024 in Special Case No. 238 of 2023 by Special Judge, Jalna, he surrendered to the custody of the Court and preferred an application for suspension of sentence, which was allowed. He invited my attention to the testimony of PW 1, who is the complainant, and contended that the evidence of PW 1 is not reliable and conviction on the basis of such evidence ought not to have been awarded.

3. Per contra, learned A.P.P. opposed the application and contended that the offence committed against the victim is serious and sentence may not be suspended.

4. Mr. Subhedar, learned counsel appearing for Respondent No.2/victim has opposed the application by advancing argument that the appellant was of sixty-five years and the victim was fourteen years, at the relevant time and the evidence laid by prosecution is reliable and cogent.

5. With the help of respective counsel, I have gone through the record of the case. It is the case of prosecution that on 05th September, 2021 at 05:00 p.m., when the victim was plucking fruits, the accused came near the victim, caught her hand and pressed her chest. The said incident was then reported to the respondent – police station on the same day.

6. Learned counsel for the applicant submitted that if the evidence of victim is perused, there are contradictions and omissions and in fact it was the case of false implication.

7. It is necessary to observe that the applicant was on bail all throughout the trial and it is not even the case either of prosecution or the victim that the applicant has misused the liberty or threatened the victim. The sentence imposed upon the applicant is of fixed term and he can be called upon to undergo the same, if appeal is not decided in his favour. The applicant has also deposited the fine amount. Testimony of the victim shows that the questions put to her in cross-examination will have to be tested in the light of grounds raised in memo of appeal. In that view of the matter, I am inclined to allow the present application. Hence, the following order :-

ORDER

- (I) Criminal application is allowed.
- (II) The sentence imposed upon the applicant in Special Case No. 238 of 2023 by Special Judge, Jalna vide judgment and order dated 23rd October, 2024, convicting the applicant for commission of offence punishable under Section 8 of Protection of Children from Sexual Offences Act, 2012 and Section 354-A(i) of the Indian Penal Code of three years' rigorous imprisonment is suspended, till final disposal of appeal.

(III) The applicant be released on same terms and condition as were imposed by the trial Court.

(RAJNISH R. VYAS, J.)

SSD