



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

CRIMINAL APPLICATION NO. 2115 OF 2025
IN APEAL/434/2025

YOGESH YUVRAJ SAVALE
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Advocate for Applicant : Mr. Shahrukh Shah
APP for Respondent No. 1 : Ms. Ashlesha S. Deshmukh
Advocate for Respondent No. 2 : Mr. Shrinivas Kulkarni

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CORAM : RAJNISH R. VYAS, J.

Dated : 06.01.2026

PER COURT :-

1. This is an application for grant of bail and suspension of sentence.
2. The applicant who is original accused is convicted for commission of offences punishable under Sections 376 (1) of Indian Penal Code and Section 4 (5) (i) read with Section 6 of Protection of Children from Sexual Offences Act. He was directed to suffer rigorous imprisonment for ten years and to pay fine of Rs. 10,000/- even default sentence has been imposed upon him. Conviction awarded by Special Judge (POCSO)/Additional Sessions Judge, Dhule, dated 28.05.2025, is assailed in an appeal and an application for bail of suspension of sentence is preferred.
3. Learned counsel for the applicant Mr. Shah, submits that

if the testimony of the victim is perused, it would clearly reveal that it was a case of love affair. He further submits that even victim has admitted in her cross-examination that there was a love affair. He further submits that since the appellant and victim had been to various places the inference can be drawn that the act was consensual.

4. According to him, in similar circumstances, the Hon'ble Apex Court extended the benefit of bail to the accused. He has relied upon the judgment in Rishipal S/o. Sri Mitru Versus The State of Uttaranchal, in Criminal Appeal No. 180/2014, dated 27.02.2025.

5. Per contra, learned APP Ms. Ashlesha Deshmukh, contends that the judgment passed by the trial Court is just and proper and while awarding the sentence the testimony of victim as well as the medical evidence was discussed at length.

6. Learned counsel Mr. Shriniwas Kulkarni, appearing for the victim supported the stand taken by the prosecution. He submits that admittedly victim was minor on the date of incident, and therefore, her consent could not make any difference.

7. With the help of the parties, I have gone through the record. I have given thoughtful consideration to the contention advanced by the respective parties. At the outset, it is necessary to mention here that the conviction is not only under Section 376 (1) of the IPC, but also under the Protection of Children from Sexual Offences Act. It is necessary to mention here that the testimony of doctor clearly shows that hymen was torn though it was 15 days to one month old.

8. Learned counsel for applicant though argues that it can be inferred that the act was consensual since the parties visited various places will not be enough to take out the rigors of the provisions of the Special Act. It is further necessary to mention here that the victim was just 15 years old and accused was 28 years, at the time of incident. The fact remains that the consent of the minor has no value in the eyes of law. So far as the judgment cited by learned counsel for the applicant in Criminal Appeal No. 180/2014 is concerned, suffice it to say that in that case, charge was not under the Special Act.

9. In the aforesaid background, I am of the opinion that the applicant cannot be released on bail by suspending his sentence. Accordingly, application is rejected.

(RAJNISH R. VYAS, J.)

SPC