



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.3613 OF 2025
IN
CRIMINAL APPEAL NO. 474 OF 2024

Dnyaneshwar S/o. Bansilal Raysing (Koli) ... Applicant

Versus

The State of Maharashtra and Another ... Respondents

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Mr. C. C. Deshpande, Advocate for Applicant.

Mr. V. M. Jaware, APP for Respondent No.1 - State.

Mr. Ashutosh Kulkarni, Advocate for Respondent No.2 (Appointed through Legal Aid)

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CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 30 MARCH 2026

PRONOUNCED ON : 01 APRIL 2026

ORDER :

1. Present application is for suspension of sentence and grant of bail by virtue of conviction recorded by learned Special Judge and Additional Sessions Judge, Amalner, District Jalgaon in Special (POCSO) Case No. 48 of 2023.

2. Learned counsel for applicant pointed out that, applicant was tried vide Special (POCSO) Case No.48 of 2023 by judgment and order dated 25.01.2024, he came to be convicted for offence punishable under sections 342 of IPC and sections 4, 8 and 12 of the Protection of Children

from Sexual Offences Act, 2012. He points out that, maximum sentence is of 20 years. According to him, appeal has been preferred way back in the 2024, and there are no immediate prospects of hearing the appeal. That, he further submitted that, there is serious doubt about sexual assault, more particularly in view of evidence of medical expert PW5, who has in examination-in-chief itself stated that there is no evidence of sexual assault, nor there is any injury. Therefore, he submits that, conviction for offence under the said section itself is rendered doubtful, and therefore, applicant has a good case in appeal, but as it is not likely to be heard in near future, he prays for suspension of sentence and grant of bail.

3. Learned APP as well as learned counsel for victim, both justify the order of conviction and point out that victim was merely 8 years of age. That, testimony of victim has been taken into account and relied by learned trial Court. Learned APP invited attention of this Court to the findings recorded in the judgment, more particularly in paragraph nos. 64 and 65 and submits that offence is serious and therefore he opposes the grant of relief of bail as well as suspension of the sentence.

4. Heard. Perused the papers. It seems that applicant was tried vide Special (POCSO) Case No. 48 of 2023 for commission of offence under section 342 of IPC and sections 4, 8 and 12 of POCSO Act. Admittedly,

victim is said to be 8 years of age. After complete appreciation of evidence, learned trial Court recorded a conviction for offence punishable under sections 342 of IPC and sections 4, 8 and 12 of POCSO Act. From the operative part of the judgment and order, it is emerging that, sentence for offence punishable under section 4 of POCSO Act is 20 years, and for the rest of the offences, it is 05 years and 01 year, respectively.

5. Present application for suspension of sentence and grant of bail is primarily on the ground that, medical evidence does not support sexual assault. Attention of the Court is invited to PW5 medical expert, wherein, he has deposed that, when he examined the victim, there was no evidence of sexual assault on her nor there was any injury. Precisely, taking such observation into account, relief of suspension of sentence and grant of bail is urged for. It is fairly well settled that when the sole testimony of victim inspires confidence, even if there is no corroboration from medial corner, still conviction can be maintained. Admittedly, victim is 8 years of age. On full-fledged trial and on complete appreciation, learned trial Court has recorded the guilt for offence punishable under section 4 of POCSO Act.

6. Considering the gravity of the charge is proved, this court does not find it a fit case to grant relief as prayed. Hence, the following order is passed :

ORDER

(i) The Criminal Application is rejected.

(ii) Fees of learned Advocate, who is appointed to represent cause of respondent no.2 is to be paid by the High Court Legal Services Sub-Committee, Aurangabad as per rules.

(ABHAY S. WAGHWASE, J.)