



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4311 OF 2025
IN
CRIMINAL APPEAL NO. 862 OF 2025

Deepak Baliram Kendre
Age : 21 years, Occ. Education,
R/o. Kendrewadi,
Taluka Ambajogai, District Beed. ... Applicant

Versus

1. The State of Maharashtra
Through Police Station Officer,
Police Station Dharur,
Dharur, District Beed.
2. A B C ... Respondents

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Mr. B. S. Chondhekar, Advocate for the Applicant.
Mr. N. S. Tekale, APP for Respondent No.1-State.
Mr. Akash D. Gade, Advocate for Respondent No.2.
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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 18.03.2026

Pronounced on : 23.03.2026

ORDER :

1. Convict in Special Case No. 15 of 2024 for offence under Section 376(3) of IPC, Section 3 punishable under Section 4(2), Section 7 punishable under Section 8, Section 9 punishable under Section 10 and Section 11 punishable under Section 12 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO Act'), prays for suspension of sentence and grant of bail.

2. Learned counsel for the applicant pointed out that, applicant is barely 18 years of age. There were love relations between him and victim. That, prosecution had not placed cogent and reliable evidence in support of age of victim and as such, her age was not proved beyond reasonable doubt. He pointed out that, only school extract was gathered by the Investigating Officer and it was straightway accepted by the trial court. His further contention is that, here, medical evidence is not convincingly proving offence of rape and therefore, applicant has a good on merits in appeal, however according to him, as it would take long time to be heard, he prays for suspension of sentence and grant of bail.

3. Above application is opposed by both, learned APP as well as learned counsel for the complainant. It is pointed out by learned APP that, there is convincing, trustworthy and reliable testimony of victim and therefore, under such circumstances, though there is no requirement of independent corroboration, there is evidence of mother. That, medical evidence supports the occurrence. They both pointed out that victim being minor of 12 years, theory of love relations is of no significance. For all above counts, relief of suspension of sentence and grant of bail is sought to be rejected.

4. After considering the above submissions and on going through the record, it seems that victim is examined as PW2. She gave her date of birth as 20.08.2010. In short, her testimony is that when her parents were out for work and she was alone in the house on account of Diwali Vacation, accused neighbour came and reminded her of his previous proposal to accompany him to Pune and perform marriage, which she had refused. It is further alleged that he closed the door, tied her both hands, gagged her, undressed her, got himself undressed and committed sexual intercourse. She claims to have managed to rescue herself from his clutches and even managed to give call to her mother who came, after which accused allegedly ran away and therefore, they approached police.

5. Evidence of victim's mother is in the capacity of PW1 and she claims to have heard screams of her daughter and rushed home and has noticed accused coming out of the house and fleeing.

6. In support of age, prosecution seems to have adduced evidence of PW3 in-charge Head Master, who placed on record admission extract of the school admission register Exhibit 42 wherein victim was shown to have taken admission in the 1st Standard and her date of birth is shown as 20.08.2010. PW4 and PW6 are the medical experts,

who issued certificates Exhibits 44 and 51 respectively. consequently, there is overwhelming evidence. Apparently victim is shown to be 12 years of age at the time of incident. Though applicant is shown to be 18 years and some months, he also seems to have a track record of criminal antecedents. Taking into account the nature of allegations and gravity of offence, this court does not think it to be a fit case to extent benefit of suspension of sentence and grant of bail. Hence, following order :

ORDER

The application is rejected.

[ABHAY S. WAGHWASE, J.]

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