



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 4471 OF 2025

IN

CRIMINAL APPEAL NO. 899 OF 2025

Mayur s/o Somnath Sonwane,
Age : 32 years, Occu Labour,
R/o Kombawadi, Taluka Shrirampur,
District Ahmednagar.

... Applicant

Versus

1. The State of Maharashtra,
Through Police Station,
Incharge Veegaon,
Taluka Vaijapur,
District Aurangabad.

2. X. Y. Z.

... Respondent

.....

Mr. D. A. Paikrao, Advocate for the Applicant.

Mr. B. B. Bhise, APP for Respondent No.1-State.

Ms. Sarita Gaikwad, Advocate for Respondent No.2 (appointed)

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 18.03.2026

Pronounced on : 23.03.2026

ORDER :

1. Present application is for suspension of sentence imposed by learned Special Judge (under POCSO Act), Vaijapur, District Aurangabad in Special Case No. 258 of 2023 decided on 01.11.2025 convicting the applicant for offence under Sections 376(2)(f)(n) of

IPC as well as Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act).

2. Learned counsel for the applicant submitted that, applicant was tried vide above Sessions Case for above Sections. According to him, though age of victim is shown to be 14 years, there was no convincing and cogent evidence on the point of age. That, there was no corroboration in the form of date of birth certificate. He pointed out that, victim has admitted in cross that there earlier there was a dispute. That, moreover, mother of victim is also unable to give exact date of her marriage or date of giving birth to the victim. That, scientific evidence does not support prosecution. He further pointed out that, no ossification test has been conducted and as such, there is long list of grounds on merits to be agitated in appeal. However, as appeal would take long time to be heard and sentence is of 20 years, he prays for relief of suspension of sentence and grant of bail.

3. Both, learned APP as well as learned counsel appointed to represent the complainant, justify the order of conviction to be perfectly on merits and in line with the evidence on record. Both pointed out that, victim has given her DOB in the testimony as 17.05.2009. Allegations are since April 2023. That, prosecution has

adduced evidence of Head Master as PW5 who has placed on record extract of school admission as well as TC and as such, on the point of date of birth, there is convincing evidence apart from that of victim and her parents. They also point out that there is supportive medical evidence upon examination of victim.

4. In above context, evidence on record is put to scrutiny. In support of above charge, prosecution seems to have adduced evidence of as many as eight witnesses including that of victim, her parents, school authority and medical experts. Copy of the Judgment of trial court is also placed on record. Going by the above discussed record, i.e. testimony of victim and school extract, she seems to be 14 years of age. There is evidence of Head Master PW5 who carried original admission register. Victim was at that time shown to be studying in 8th standard. After complete analysis, trial court has recorded a finding that prosecution has proved that victim is minor. As regards to offence is concerned, testimony of victim is relevant and her evidence has remained unshaken and rather finds support from the evidence of her father.

5. As regards to medical evidence is concerned, there is evidence of doctor PW7 who has deposed about the findings to which she came

across and she finally opined that sexual assault could not be ruled out. Consequently, there is evidence that victim, at the time of incident, was minor and she being taken away from the custody of parents without their consent. Therefore taking into account the nature of allegations and gravity of offence, this court does not think it to be a fit case to extend benefit of suspension of sentence and grant of bail. Hence, following order :

ORDER

- I. The Application is dismissed.
- II. Fees of learned counsel appointed to represent respondent no.2 to be paid by the High Court Legal Services Sub-Committee, Aurangabad, as per Rules.

[ABHAY S. WAGHWASE, J.]