



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 378 OF 2026
IN CRIMINAL APPEAL NO. 50 OF 2026

Vijay Sitaram Hiwale

..APPLICANT

VERSUS

State of Maharashtra

..RESPONDENT

....

Mr. R.B. Ade, Advocate for applicant

Mrs. M.N. Ghanekar, A.P.P. for respondent no.1 – State

Ms. Smita Chole, Advocate for victims

....

CORAM : RAJNISH R. VYAS, J.

DATE : 11th FEBRUARY, 2026

PER COURT :

. This is an application for grant of bail and suspension of sentence. The sole accused / applicant was convicted in Special Case (POCSO) No. 366 of 2023 on 20th January, 2026 by Additional Sessions Judge, (Judge-Exclusive Fast Track Special Court), Court No.7, Aurangabad for commission of offence punishable under Section 354A(1)(i) of the Indian Penal Code and under Sections 8 and 10 of the Protection of Children from Sexual Offences Act, 2012. The sentence imposed upon the applicant is rigorous imprisonment for five years and fine of Rs.10,000/- with default sentence.

2. The applicant was also convicted for commission of offence punishable under Section 323 of the Indian Penal Code and sentenced to suffer simple imprisonment for one month.

3. Challenging the aforesaid conviction and praying for suspension of sentence and grant of bail, learned counsel for the applicant has stated that the present applicant was initially arrested on 11th July, 2023 and thereafter was released on bail on 06th November, 2023 and he did not misuse the liberty. He stated that he had cooperated the investigating agency for early completion of trial and after pronouncement of judgment of conviction, he surrendered to the custody of Court.

4. Challenging the findings given by the trial Court, he submitted that at the relevant time the applicant was working as teacher with a particular school, wherein victims / PW 1 to 10 were studying. He submitted that if the testimony of PW 1 to 10 is perused, it would reveal that they are not supporting the case advanced by prosecution. According to him, even otherwise if their statements are looked into, it would reveal that accused / applicant has not exceeded his limits and on some occasions had only touched the cheeks, back and had used reasonable force so as to inculcate discipline in the students. Learned counsel for the applicant further contended that the sentence imposed upon the applicant is of five years of imprisonment and the appeal will take sometime to be heard finally.

5. Per contra, learned A.P.P. submitted that the offence for which the applicant was charged and convicted was serious offence and the applicant was a teacher and should not have misbehaved with students.

6. Ms. Chole, learned counsel representing the victims has supported the stand taken by prosecution.

7. I have gone through the record of case and have heard respective counsels. The prosecution, in order to bring home the charge, has examined total eighteen witnesses. PW 1 to 10 are the victims, who have not supported the case of prosecution. The applicant, at the relevant time, was working on the post of teacher and he used to touch cheeks of victim so also on some occasion used to beat them in the class. Few of the victims are girls and few are boys. From 06th November, 2023 till pronouncement of judgment i.e. 20th January, 2026, the applicant was on bail.

8. However, the fact remains that the sentence imposed upon the accused is of fixed term and considering the age of the accused, who is of 52 years, he can be called upon to undergo the sentence, once the appeal is decided otherwise. Even it is not the case of prosecution so also of victim that the applicant has misused the liberty. During the trial he was on bail. Testimony of victims i.e. PW 1 to 10 goes contrary to the story advanced by the prosecution, and therefore, will have to be tested at the time of final hearing on the grounds raised in the appeal memo. The accused has already deposited the fine amount. In that view of the matter, I am inclined to allow the application. Hence, the following order :-

ORDER

- (I) Criminal application is allowed.
- (II) The sentence of rigorous imprisonment for five years imposed upon the applicant for commission of offence punishable under Section 354A(1)(i) of the Indian Penal Code and under Sections 8 and 10 of the Protection of Children from Sexual Offences Act, 2012, so also the sentence of simple imprisonment for one month for offence punishable under Section 323 of the Indian Penal Code by Additional Sessions Judge, (Judge-Exclusive Fast Track Special Court), Court No.7, Aurangabad in Special Case (POCSO) No. 366 of 2023 on 20th January, 2026 are hereby suspended till final decision on appeal.
- (III) The applicant be released on bail on same terms and conditions as were imposed by the trial Court.
- (IV) The victim and prosecution would be at liberty to prefer an application for cancellation of bail of the applicant, if the applicant misused his liberty.

(RAJNISH R. VYAS, J.)

SSD