



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 443 OF 2026
IN CRIMINAL APPEAL NO. 76 OF 2026

Shivprasad s/o Sambhaji Bhosale
Age : 25 years, Occu. Driver,
R/o. Banegaon, Taluka Purna,
District Parbhani.

... Applicant

Versus

1. The State of Maharashtra,
Through P.S. Bori, Taluka Jintur,
District Parbhani.

2. X. Y. Z.

... Respondents

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Mr. R. J. Nirmal, Advocate for the Applicant.

Mr. P. P. Dawalkar, APP for Respondent No.1-State.

Mr. Nikhil Jaiswal, Advocate for Respondent No.2 (appointed through
Legal Aid)

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CORAM : ABHAY S. WAGHWASE, J.

Reserved on : 18.03.2026

Pronounced on : 23.03.2026

ORDER :

1. Instant application is for suspension of sentence awarded by learned Additional Sessions Judge-1/Special Judge, Parbhani in Special (POCSO) Case No. 86 of 2020 decided on 08.01.2026 convicting the applicant for offence under Sections 376, 363, 366A and 506 of IPC as well as Section 3 r/w 4 and Section 8 of the Protection of Children from Sexual Offences Act, 2012 (for short, POCSO Act).

2. Learned counsel for the applicant pointed out that, maximum sentence awarded is of ten years. That, there is false implication. That, even victim was above 17 years of age and Radiologist's opinion was that she was in the age group of 19 to 20 years, and therefore advantage to that extent was expected to be given. That, learned trial court also failed to consider that victim had been to Hyderabad with applicant. That school record has not been correctly appreciated, more particularly cross of the headmaster who had admitted that he was not present at the time of entry. That, even father had admitted in cross that entry of birth of daughter was not taken in Gram-panchayat record. Moreover, according to him, there was no convincing forensic or medical evidence as no semen was detected in the victim's swab. Lastly he submitted that it is not considered that victim had herself eloped with accused and travelled long distance without raising alarm. Thus, according to him, there is good case on merits, but as appeal would take long time to be heard, relief of suspension of sentence and grant of bail is urged for.

3. Above application is strongly opposed by both, learned APP as well as learned counsel for the complainant-victim, on the ground that victim is proved to be minor. That, evidence of victim as well as her parent is recorded. That, victim has clearly stated that after

issuing threat, victim was taken in a jeep to Deglur. It is pointed out that, there was thus allegation of forceful act on a minor. That, medical expert had noticed multiple abrasions on the body of victim suggesting use of force and resistance. At the end, it is pointed out that, even if scientific evidence does not support prosecution, there is convincing evidence of the victim.

4. After appreciating the above respective cases and on going through the record, it is emerging that crime was registered on the basis of statement given by the very victim. As regards to age of victim is concerned, prosecution has adduced evidence of PW8 in-charge Headmaster, who placed on record extract of school admission register at Exhibit P-99 wherein date of birth of victim is reflected as 15.06.2002. There is evidence of couple of doctors on the age, but there is standard proof of school extract reflecting date of birth. PW4 a medical expert, who immediately examined victim, has noticed multiple healed abrasions suggesting forceful act. In cross he denied that there were no external injuries. Therefore, at this stage, there is material indicating victim to be minor at the time of incident and therefore this Court does not find there to be any merit in the application. Numerous grounds are raised at this stage, as if appeal is being worked out. However, at this stage, it is to be merely seen

whether there are good prospects of acquittal. 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 grant of bail by suspending the sentence. Hence, following order is passed :

ORDER

- I. The application is rejected.
- 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.]

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