

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 603 OF 2026
IN APPEAL/106/2026

SARFARAJ ABDUL RASHID SAYYAD
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

...
Advocate for Appellant : Mr. Nileshsingh J. Patil
APP for Respondent no.1 : Mr.B.B.Bhise
Advocate for Respondent no.2 : Ms.Priya Bharaswadkar h/f.
Mr. Raghvendra N. Bharaswadkar
...

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : 25 MARCH, 2026

PRONOUNCED ON : 26 MARCH, 2026

ORDER :

1. Present application is for suspension of sentence awarded by learned Special Judge (Under the POCSO Act), Beed, in Special (POCSO) Case No.73 of 2021.

2. Learned counsel for applicant submitted that, applicant was tried vide Special (POCSO) Case No.73 of 2021 and he is held guilty for offence under Sections 363, 366-A, 376(2)(j) of the Indian Penal Code and under Section 4 of the Protection of Children from Sexual Offences Act (POCSO Act), by judgment and order dated

21-01-2026. Learned counsel submits that, victim is said to be of 16 years of age, but at the time of incident, she was married. That, in statement under Section 164 of the Cr.PC., she had admitted that she herself went and accompanied the accused as there was love affair. That, she has spent considerable time with his company on her own accord. Therefore, there is a good case on merits in appeal. It is pointed out that, against said conviction, appeal has been preferred recently and there are no immediate prospects of hearing the appeal and as such, prayers for suspension of sentence awarded by trial Court are pressed into service.

3. Above application is opposed by both learned APP as well as learned counsel for respondent no.2 by pointing out that, on the strength of evidence, victim is shown to a minor of 16 years. Learned APP pointed out that, in cross-examination, victim had answered that there was forceful act. That, medical evidence is positive and therefore, offence being serious, they both opposed application. Learned counsel for victim placed on record copy of application dated 28-01-2026 made to the Superintendent of Police wherein there were threats issued by accused side.

4. After hearing both the parties, it seems that, present applicant faced trial vide above special case for above offence and the trial seems to have culminated into conviction. Applicant is shown as sole accused and he is held guilty for offence under Sections 363, 366(A), 376(2)(i) of the IPC and under Section 4 of the POCSO Act. Maximum sentence awarded is for 10 years i.e. for offence under Section 366-A, 376(2)(i) of the IPC and under Section 4 of the POCSO Act. On a full-fledge trial, conviction has been recorded. Victim is proved to be a minor and therefore, provisions of the POCSO Act are attracted. Considering the serious offence, though applicant was on bail during trial, this Court is not inclined to grant relief of suspension of sentence. If so desire, appeal can be taken up for hearing. Hence, following order.

ORDER

Application is rejected.

(ABHAY S. WAGHWASE)
JUDGE