



**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO. 1356 OF 2026
IN APEAL/254/2026**

VITTHAL SHIVAJI SHINDE

VERSUS

THE STATE OF MAHARASHTRA AND ANOTHER

....

Mr. Vinayak N. Khiste h/f Mr. V. B. Dhage, Advocate for Applicant

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

Ms Perna M. Kharat, Advocate (Appointed) for Respondent No.2

....

CORAM : ABHAY S. WAGHWASE, J.

RESERVED ON : May 06, 2026

PRONOUNCED ON : May 07, 2026

ORDER :-

1. Instant application is for suspension of sentence and grant of bail in consequence to the judgment and order dated 05.03.2026 passed by the learned Special Judge-4, Latur in Special (POCSO) Case No.102 of 2023, convicting the applicant for the offence under Section 354 of I.P.C. and under Sections 8, 12 of POCSO Act.

2. It is submitted that the applicant is almost 76 years of age as of today. He has been falsely implicated and convicted by the learned trial Judge. It is pointed out that the conviction

imposed is for three years for commission of offences under Section 354 of the IPC and Sections 8 and 12 of the Protection of Children from Sexual Offences (POCSO) Act. The conviction is based solely on the testimony of the father of the victim. Moreover, the victim has admitted that she was deposing as per the say of her parents indicating that her testimony was tutored. It is further submitted that the informant / father of the victim has not been consistent in his statements in the FIR and the statement recorded under Section 164 of the CrPC, and therefore, he is not a reliable witness. It is also pointed out that the victim, in her cross-examination, admitted that she was tutored, therefore, this is a strong case on merits. However, the appeal is likely to take long time to be heard and decided. Hence, the applicant prays for suspension of sentence and grant of bail.

3. Learned APP as well as the learned counsel appointed to espouse the cause of Respondent No. 2 strongly opposed the application on the ground that serious offence has been committed. The victim is five years and three months old. The incident occurred at the Anganwadi and was witnessed by the victim's father himself. Upon a complete appreciation of the facts, the accused has been

convicted, and it is evident that the crime was committed against a minor. Therefore, it is prayed that the application be rejected.

4. Heard. Perused the papers.

5. It appears that, by virtue of Special (POCSO) Case No.102 of 2023, the present applicant was tried by the Special Judge-4, Latur, for the offences under Section 354 of I.P.C. and under Sections 8 and 12 of the POCSO Act, by judgment and order dated 05.03.2026. The case of the prosecution has been accepted, and the applicant has been convicted. Against the said judgment, an appeal has been preferred. During the pendency of the appeal, the instant application has been filed for suspension of sentence and grant of bail. The impugned order shows that the applicant has been sentenced to suffer three years of imprisonment for the offences under Section 354 of the I.P.C. and under Sections 8 and 12 of the POCSO Act.

6. The F.I.R., as well as the statements of the informant and the victim, have been perused. The informant (father) states that, on 11.06.2023, when his daughter was playing, the present applicant came near the victim on the pretext of offering chocolate. He took her behind a shop, therefore, the informant became suspicious and followed them. He noticed that the applicant had pulled down his

pants as well as his undergarment and had caught hold of his daughter. He claims to have seen the applicant touching his private parts. However, at that time, he had seen the accused from the back. The F.I.R. shows that, despite the incident having occurred at around 3:00 p.m., it was lodged at about 8:00 p.m., and as such, there is a delay. The victim appears to have admitted in cross-examination that she had given her statement before the police as per the say of her parents and deposed before the police in that manner. Therefore, taking the same into account, as well as the old age of the victim, and considering that there are no immediate prospects of hearing the appeal in the near future, the relief as prayed for deserves to be granted. Hence, the following order:-

ORDER

- (i) Criminal Application stands allowed.
- (ii) The substantive sentence imposed on the applicant Vitthal Shivaji Shinde by the learned Special Judge-4, Latur in Special (POCSO) Case No.102 of 2023 dated 05.03.2026 stands suspended till final hearing and disposal of Criminal Appeal No.254 of 2026.
- (iii) The applicant be released on PR. Bond of Rs.15,000/- (Rs.Fifteen thousand only) with two solvent sureties in the like amount.

- (iv) The applicant shall not commit any criminal activity.
- (v) The applicant shall remain present before the learned trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and thereafter, the trial Judge to fix dates for his subsequent appearances.
- (vi) In case of two consecutive defaults on the part of the applicant to remain present before the trial Court, the trial Court to inform this Court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of the bail granted to the applicant.
- (vii) Bail before the trial Court.
- (viii) The fees of the appointed counsel Ms Perna M. Kharat, shall be quantified as per rules.

[ABHAY S. WAGHWASE, J.]