IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR

CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO. 2484 OF 2025
IN
CRIMINAL APPEAL NO. 708 OF 2025

Rohit @ Rohan Maruti Bansode … Applicant/Appellant

Versus

The State of Maharashtra & Anr. … Respondents

Mr. Vresh Purwant a/w. Mr. Ashutosh Purwant for the Applicant/Appellant.
Mr. A.A. Naik, A.P.P. for the Respondent No.1-State.

Coram : R.G. AVACHAT &
AJIT B. KADETHANKAR, JJ.

Date : 27th January 2026.

PER COURT :

1. Heard.

2. This is an application under Section 389 of the Code of Criminal Procedure. The Applicant has been convicted and sentenced by the learned Special Judge, Solapur in Special Case No. 203 of 2021 vide its Judgment and Order dated 17th June 2025 for the offences punishable under Sections 363, 376(2)(n), 452, 323, 504 & 506 of the Indian Penal Code (for short,

"I.P.C.") and Sections 4, 8, 10 & 12 of The Protection of Children from Sexual Offences Act (for short, "POCSO Act") as follows :

Sr. No.	For the offences	Punishment
1.	U/s. 376 (2) (n) of I.P.C.	Rigorous Imprisonment for Life and liable to pay fine of Rs.10,000/-, in default of payment of fine, to suffer further Rigorous Imprisonment for three months.
2.	U/s. 7 PUS 8 POCSO Act	Rigorous Imprisonment for Five Years and liable to pay fine of Rs.1000/-, in default of payment of fine, to suffer further Rigorous Imprisonment for one month.
3.	U/s. 10 of POCSO Act	Rigorous Imprisonment for Seven Years and liable to pay fine of Rs.1000/-, in default of payment of fine, to suffer further Rigorous Imprisonment for one month.
4.	U/s. 11 PUS 12 of POCSO Act	Rigorous Imprisonment for Three Years and liable to pay fine of Rs.1000/-, in default of payment of fine, to suffer further Rigorous Imprisonment for one month.
5.	U/s. 452 of I.P.C.	Rigorous Imprisonment for Seven Years and liable to pay fine of Rs.1000/-, in default of payment of fine, to suffer further Rigorous Imprisonment for one month.
6.	U/s. 363 r.w. 34 of I.P.C.	Rigorous Imprisonment for Three Years and liable to pay fine of Rs.1000/-, in default of payment of fine, to suffer further Rigorous Imprisonment for one month.
7.	U/s. 323 of I.P.C.	Rigorous Imprisonment for One Year and liable to pay fine of Rs.1000/-, in default of payment of fine, to suffer further Rigorous Imprisonment for one month.
8.	U/s. 504 r.w. 34 of I.P.C.	Rigorous Imprisonment for Two Years and liable to pay fine of Rs.1000/-, in default of payment of fine, to suffer further Rigorous Imprisonment for one month.
9.	U/s. 506 r.w. 34 of I.P.C.	Rigorous Imprisonment for Two Years and liable to pay fine of Rs.1000/-, in default of payment of fine, to suffer further Rigorous Imprisonment for one month.

3. According to the prosecution, the victim was 17 years of age at the relevant time. The Applicant lured her. He sexually exploited her to satisfy his lust.

4. Learned A.P.P. submitted that the evidence of the victim establishes the guilt of the Applicant in respect of the aforesaid offences and prayed for rejection of the present Application.

5. We have perused the impugned judgment and the relevant evidence on record. According to us, the Applicant has a very strong case on merits. At the relevant time, the victim was alleged to be 17 years of age. In proof of her age, a School Leaving Certificate along with an extract of the Birth Register was placed on record. As per the prosecution's own case, the victim was residing in an orphanage. It was the authorities of the orphanage, who approached the competent Court for recording her date of birth in the Birth Register. Those authorities approached the Court in the year 2005, and the date of birth entry came to be made in the year 2007. The adoptive father of the victim was examined; however, being not the natural father, he was admittedly unaware of the actual date of birth of his adoptive daughter. Admittedly, the natural parents of the victim were not examined. The date of birth stated by the victim in her examination-in-chief was nothing but a piece of hearsay. The trial Court, merely relying upon Section 35 of the Evidence Act, read the birth certificate of the victim in evidence.

6. In our considered view, there was not even an iota of reliable evidence regarding the actual date of birth of the victim. What information was reported to the Court, and on what basis the date of birth ultimately came to be recorded in the Birth Register, remains completely unknown. As such, we *prima facie* find that the prosecution has failed to produce any cogent or solid evidence to prove the age of the victim.

7. The Applicant was 24 years of age at the relevant time. Admittedly, the victim got acquainted with him through Instagram, a social media platform. Their acquaintance gradually developed into an intimate relationship. On the relevant date, the victim left her house along with the Applicant. One of her friends had come to fetch her on that day. After returning home, the victim did not disclose anything to her father on that very day. It was only after about two days that she informed her father about the alleged acts attributed to the Applicant. She was medically examined after a delay of about five to seven days. Now, least said is better as regards the quality of this evidence.

8. Considering the evidence on record, we find that the case appears to be of emotional involvement between the Applicant and the victim. The victim was alleged to be aged 17 plus; however, as discussed earlier, there is no cogent or reliable evidence on record to conclusively establish her age. The Applicant has been arrested in May 2021. He is presently behind bars for almost four years and six months. There is no likelihood of the Appeal being

taken up for final hearing in the near future.

9. In the aforesaid factual background and considering the overall circumstances of the case, we are inclined to allow the Application. Hence, we pass the following Order:

-: O R D E R :-

[a] The substantive sentence imposed on Applicant by the learned Special Judge, Solapur vide its Judgment and Order dated 17th June 2025 in Special Case No. 203 of 2021 shall remain suspended till the final disposal of Criminal Appeal No. 708 of 2025.

[b] The Applicant be released on furnishing bail in the sum of Rs.15,000/- with one or more solvent sureties of like amount.

[c] Bail before the trial Court.

[d] The Applicant shall not contact with the victim and/or the witnesses.

10. The Application stands disposed of.

[AJIT B. KADETHANKAR, J.] [R.G. AVACHAT, J.]

OMKAR SHIVAHAR KUMBHAKARN
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