

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIRCUIT BENCH AT KOLHAPUR
CRIMINAL APPELLATE JURISDICTION**

**CRI-INTERIM APPLICATION NO. 28 OF 2026
IN
CR. APPEAL NO. 1397 OF 2019**

Dipak Mahadev Jambhale
Versus
The State Of Maharashtra And Anr.

Mr. Kuldeep Nikam, Advocate For Applicant
Mr. Anand S. Shalgaonkar App For The State
Ms. Sujata Lohar, advocate for respondent no. 2

**CORAM : SACHIN S. DESHMUKH, J.
DATE : 13th MARCH 2026.**

P.c.

1. Heard the learned counsel for the applicant and the learned APP for the respondent-State.

2. By this application, the applicant is seeking suspension of sentence imposed upon him by the learned Special Judge under Protection of Children from Sexual Offences Act, 2012 ('POCSO Act'), Satara vide Judgment and Order dated 30/08/2019 in POCSO Spl. Case No. 10/2015.

3. The applicant has been convicted for the offences punishable under sections 376, 2(f)(n) of the Indian Penal Code and sentenced to suffer rigorous imprisonment for 10 years and to pay fine of Rs. 50,000/-. In default of payment of fine, sentenced to undergo simple

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imprisonment for 3 months.

4. Learned counsel for the applicant submits that the fine amount is paid. The applicant is in custody for around 8 years and 4 months (including remissions). If the applicant released on bail, he will not misuse the liberty. Hence, prayed to allow the application.

5. It is contention of learned APP that the prosecution has proved the case beyond reasonable doubt. The Special Court has rendered a well reasoned order. As such, no interference is warranted. Hence, prayed to reject the application.

6. Perusal of the certificate of imprisonment submitted by the Senior Jailor, Kolhapur, Central Prison, Kalamba, Kolhapur indicates that the total period of imprisonment undergone by the applicant as on 31/10/2024 is 6 years 11 months and 20 days (including remissions) whereas the sentenced imposed upon him is of 10 years and is in continued incarceration since then.

7. On the question of suspension of sentence, the legal position stands well established. This Court in *Sanjay Devender Singh V. Union Of India*¹ has considered the issue. It has acknowledged that the high court, no doubt, has the power to suspend sentence, and that power springs from section 389, read with section 482 of code of criminal

1 Criminal Application No.607 of 2019 in cri. Appeal No. 1297 of 2018

procedure, 1973 ('Cr.P.C.').

8. Thus, the power is as much statutory as it is inherent. But there ought to be cogent, compelling reasons for the court to travel beyond the regular suspension of sentence and order the suspension of very conviction.

9. In the instant case, learned counsel for the applicant has advanced various submissions, touching the merits of the case and alleged infirmities in the order under challenge. Those submissions at this stage have been noted.

10. However, this court is of the view that a detailed examination of those aspects would necessarily require appreciation of the entire evidence on record which would be more appropriately taken at the stage of final hearing. Therefore, without expressing any opinion on the merits of the case and keeping all issues open for consideration at the time of final disposal of Appeal, I am inclined to exercise power under section 389(1) of the Cr.P.C.

11. In view of the aforesaid aspects and considering that the sentence imposed upon the applicant is a short term sentence, i pass following order:

ORDER

I. The interim application is allowed.

II. The substantive sentence of imprisonment imposed upon the

applicant by the learned Special Judge under Protection of Children from Sexual Offences Act, 2012 ('POCSO Act'), Satara vide Judgment and Order dated 30/08/2019 in POCSO Spl. Case No. 10/2015, is hereby suspended.

- III. The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- (Rs. Twenty five thousand) and one solvent surety in the like amount.
- IV. Applicant shall mark his presence before the Special Court, Satara once in three months on the date assigned by the Special Court.
- V. Professional fees to be paid to learned counsel appointed through Legal Aid for respondent no. 2.

(SACHIN S. DESHMUKH, J.)