



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (APPA) NO. 221 OF 2025
IN
CRIMINAL APPEAL NO. 122 OF 2025

MADHUKAR S/O SHAMRAO BOMBLE
VS
STATE OF MAHARASHTRA AND ANR.

*Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders.*

Court's or Judge's order

Shri A.M.Jaltare, Advocate for appellant/applicant.
Shri U.R.Phasate, APP for respondent/State.

CORAM : NEERAJ P. DHOTE, J.
DATE : 17/01/2026

This is an application for suspension of sentence imposed by the learned Additional Sessions Judge, Pusad, District Yavatmal in Special Case No. 38/2022 dated 27/01/2025 convicting and sentencing the applicant/appellant as follows:-

(i) Accused Madhukar Shamrao Bomble, Age-63 years, R/o, Mokhad, Taq. Pusad, Dist. Yavatmal is hereby found guilty and convicted for offences punishable under under sections 376 (2) (i), 323, 506 of Indian Penal Code (for short, 'IPC') as well as offence u/sec.7 punishable u/sec. 8 of Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO Act') and offence u/sec. 3 punishable under Section 4 of POCSO Act vide Section 235(2) of the Code of Criminal procedure.

(ii) In view of Section 42 of the POCSO Act, as the

punishment for the offence under section 3 punishable u/sec. 4(2) of the POCSO Act is higher in degree than the offence punishable u/sec. 376 (2) (i) of IPC; the accused is punished for such offences accordingly u/sec. 4(2) of POCSO Act to suffer **Rigorous Imprisonment for 20 (Twenty) years** and shall also be liable to pay fine of Rs.10,000/- (Rs. Ten thousand only), i/d to suffer Simple Imprisonment for two months.

(iii) For the offence u/sec.7 punishable u/sec.8 of POCSO Act, the accused shall suffer **Rigorous Imprisonment for 05 (Five) years** and shall also be liable to pay fine of Rs.10,000/- (Rs. Ten thousand only), i/d to suffer Simple Imprisonment for two months.

(iv) Accused Madhukar Shamrao Bomble is sentenced to suffer **Rigorous Imprisonment for Six months** for the offence under section 323 of Indian Penal Code and shall pay fine of Rs.1,000/- (Rs. One thousand only), i/d to suffer Simple Imprisonment for one month.

(v) Accused Madhukar Shamrao Bomble is sentenced to suffer **Rigorous Imprisonment for One year** for the offence under section 506 of Indian Penal Code and shall pay fine of Rs.5,000/- (Rs. Five thousand only), i/d to suffer Simple Imprisonment for three months.

2. The case of the prosecution in brief as can be revealed from the impugned judgment reads as under. The relevant paragraph is reproduced below.

The complaint has been filed by the mother of victim girl on 31st March, 2022. It is contended that complainant is widow and having three daughters. Victim is the elder daughter. Complainant, her daughters, brother in law and mother in law are residing jointly. Accused is the uncle of her husband. Victim was of 9 years old. On 12th of March, 2022, accused called victim to his house. Victim did not return home after a considerable period. Therefore, complainant requested brother-in-law to call her. Her brother-in-law went to the house of accused in order to call back the victim girl. She was not present there & accused was also not present. Therefore, her brother-in-law went to the house of Kailash Bomble & brought the victim. After returning home, the victim girl was crying. Upon inquiry, victim narrated that the accused took her to the house of Kailash Bomble and after bolting the door from inside, he removed her clothes and he was doting & kissing. Accused by inserting finger in the urinal fondled her inappropriate way. Victim made a complaint of irritation and inflation to her private part. Complainant and her mother in law namely Kusumbai inspected her private part and they found certain bleeding. Thereafter, complainant and her brother in law went to the house of accused for inquiry about his misdid. Accused threatened them of dire consequences. Later-on courage was given by her married sister in law. Therefore, she lodged the complaint.

3. It is submitted by the learned counsel for the Applicant/Appellant that there is delay in reporting the incident to the Police. The Medical evidence do not corroborate the testimony of the victim. The Appellant has been falsely implicated. The Appellant is a senior citizen and behind the bars for a period over three (3) years. The application be allowed.

4. It is submitted by the learned APP for the State that, the testimony of the victim was consistent and considering that the mother of the victim was rustic witness, there was delay in filing the FIR. The testimony of the victim need not be corroborated by the Medical evidence. The testimony of the victim and that of her mother who has lodged the report are consistent with the previous statement. The learned Trial Court has passed the judgment on appreciating the evidence on record and no case for suspension is made out.

5. With the assistance of the learned Advocate for the Appellant and learned APP for the State, I have gone through the evidence on record. The testimony of the victim is that, on the date of incident, after she came from the school, the Appellant who was her grandfather took her with him to the house of his cousin brother and inserted figure in her vagina. The evidence of PW-3 who is the cousin uncle of the victim shows that, on the day of incident, when the victim's mother informed him that the Appellant took the victim with her and she did not return,

he went to the house of the Appellant and knock the door and saw that the Appellant was closing the zip of his pant. The victim was naked and there was bleeding injury on her private part. He deposed that the Appellant left, and he took the victim and brought her with him. However, undisputedly, no report was lodged by PW-3 though he claims to have seen or witnessed the said incident. Even the victim's mother did not lodge the report immediately with the Police though she learnt about the incident on the very day. Undisputedly, the report is lodged after a period of 18 days at the instance of PW-5 who is the relative of the victim and the Appellant. The evidence of PW-5 shows that, though she came to know about the incident, she herself did not approach the Police and report the incident. This clearly shows that, there is considerable delay in reporting the incident with the Police.

6. The medical evidence in the nature of testimony of PW-7 shows that, on 01/04/2022, she examined the victim and she noticed the redness on the front side of the victim and there was a scratch on the back side of the victim. Her evidence shows that, there was redness on vagina. The evidence of the Medical Officer shows that, since the victim was examined 17 to 18 days after the incident, redness would not be present. The Hymen was intact, and there was no injury except the redness. Her evidence further shows that, the redness of the labia and vagina may occur due to force, unclean clothes, unclean water, over cycling or over running. It is shown that the medical evidence do not conclusively prove the sexual assault on the victim.

7. The above aspects show that, the Appellant has arguable case on the merits. The Appellant is behind the bars for a period of three (3) years and nine (9) months. The Appellant is aged about 65 years. The appeal is of the year 2025 and there is no likelihood that the same will be heard finally in near future. In this view of the matter, I am inclined to allow the application. Hence, the following order:-

ORDER

[I] Criminal Application is **allowed**.

[II] The substantive sentence imposed upon the Applicant namely Madhukar S/o. Shamrao Bomble, by the learned Sessions Judge, Pusad District Yavatmal vide Judgment and Order dated 27/01/2025, passed in Sessions Case No.38/2022, is hereby suspended till the final disposal of the Appeal.

[III] The Applicant/Appellant be released on bail on furnishing P.R. bond of Rs.25,000/- [Rupees Twenty Five Thousand Only] with one surety in the like amount.

[IV] The Applicant shall co-operate in early disposal of the Appeal.

[V] Bail before the Trial Court.

[VI] Criminal Application stands **disposed of** accordingly.

(NEERAJ P. DHOTE, J.)