



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

CRIMINAL APPLICATION (APPA) NO. 678/2025

IN

CRIMINAL APPEAL NO. 382/2025

Shri Sagar s/o. Pralhadrao Kolhe Vs. The State of Maharashtra and Anr.

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

Court's or Judge's order

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Mr. Raju Kadu, Advocate for Appellant/Applicant.
Mr. U. R. Phasate, A.P.P. for Respondent/Non-applicant-State.
Mr. Saurabh Singha, Advocate (Appointed) for Respondent/Non-
applicant No.2.

CORAM : NEERAJ P DHOTE, J.

DATED : 29.01.2026

1. This is an application for suspension of sentence imposed by the learned Special Judge (POCSO Act), Wardha in Special (Child) Case No.04/2021 by Judgment and Order dated 11.02.2025 convicting the Applicant/Appellant for the offences punishable under Section 10 of the Protection of Children from Sexual Offences Act, 2012 (for short, 'POCSO Act') and sentencing him to suffer rigorous imprisonment for 5 years and fine of Rs.3000/-, in default to pay fine, to suffer simple imprisonment for 10 days and further convicted for the offence punishable under Section 12 of the POCSO Act and sentenced to suffer rigorous imprisonment for 6 months and fine of Rs.1000/-, in default to pay fine, to suffer simple imprisonment for 8 days.

2. The case of the prosecution is that, the child aged 12 years resides with her parents. Her father was running a grocery shop. On 05.11.2020 at 8.00 p.m., the parents of the Victim had gone out and the Victim and her

sister were present in the shop. The Applicant and the co-convict came to the shop and purchased some articles. The Applicant asked for kiss from the Victim. The Victim got frightened and raised alarm and the Applicant and co-convict ran away. As the incident was reported to her mother by the Victim, the report was lodged with the Police Station and the crime bearing No.221/2020 came to be registered with the Police Station, Talegaon (SP), District Wardha.

3. It is submitted by the learned Advocate for the Applicant/Appellant that, considering the term sentence and no concrete proof of age of the Victim, the Applicant/Appellant is having good case on merits. He submits that the Applicant was on bail during the trial.

4. The application is opposed by the learned A.P.P and the learned Advocate for the Non-applicant No.2. They submit that, the Birth Certificate of the Victim was brought on record by the prosecution and it is proved that, on the date of incident, the Victim was a child. The Victim's evidence is clear and the offence for which the Applicant is convicted is made out and hence, the Application be rejected.

5. With the assistance of both the sides, perused the evidence on record.

6. As regards the age of Victim is concerned, the prosecution is relying on the copy of Birth Certificate of the Victim. The said Birth Certificate is brought on record in the testimony of the Victim. Admittedly, no witness is examined to prove the said documents. Therefore, *prima facie*, there

is merit in the submission of the learned Advocate for the Applicant that, the evidence in respect of the age of the Victim is not concrete. The sentence awarded by the learned Trial Court is a term sentence of 5 years. The Applicant was on bail during trial. He is behind bars for a period of 11 months. There is no possibility that, the Appeal would come up for final hearing in near future. Hence, I proceed to pass the following order :

- i] The Application is allowed.
- ii] The sentence imposed by the learned Special Judge (POCSO Act), Wardha in Special (Child) Case No.04/2021 by Judgment and Order dated 11.02.2025 on the Appellant is Suspended during pendency of the present Appeal.
- iii] Applicant – Shri Sagar s/o. Pralhadrao Kolhe be released on bail on his executing P. R. bond of Rs.25,000/-, with one solvent surety, in the like amount.
- iv] The Applicant/Appellant shall cooperate in early hearing of the Appeal.
- v] Fees of the appointed Advocate for the Respondent No.2 is quantified at Rs.7500/-.
- vi] The application stands disposed of.

(NEERAJ P DHOTE, J.)