



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

CRIMINAL APPLICATION (APPA) NO. 977/2025

IN

CRIMINAL APPEAL NO. 367/2025

Pranay s/o. Shantaram Pal Vs. State of Maharashtra and Anr.

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

Court's or Judge's order

.....  
Mr. S. N. Bawangade, Advocate for Appellant/Applicant.  
Ms S. S. Dhote, A.P.P. for Respondent/Non-applicant-State.  
Ms. Alpana Ingolikar, Advocate (Appointed) for Respondent/Non-  
applicant No.2.

**CORAM :** NEERAJ P DHOTE, J.

**DATED :** 28.01.2026

1. This is an application for suspension of sentence imposed by the learned Special Judge, POCSO Act, (Court No.1), Hinganghat in Session Case No.21/2021 on 24.06.2025 convicting and sentencing the Applicant/Appellant as follows :

- “1. Accused Pranay Shantaram Pal is hereby convicted under section 235(2) of Code of Criminal Procedure for offences under sections 5(j) (ii) and 5(1) punishable under section 6 and section 3 punishable under section 4 of Protection of Children from Sexual Offences Act, 2012 and section 376(2) (n) of the Indian Penal Code.
2. For the offence under section 5(j) (ii) punishable under section 6 of POCSO Act, 2012 the accused Pranay Shantaram Pal is sentenced to undergo rigorous imprisonment for 25 (twenty five) years and to pay fine of Rs. 50,000/- (Rs. Fifty Thousand only). In default

*of payment of fine, he shall undergo rigorous imprisonment for two years.*

3. *For the offence under section 5(1) punishable under section 6 of POCSO Act, 2012 the accused Pranay Shantaram Pal is sentenced to undergo rigorous imprisonment for 25 (twenty five) years and to pay fine of Rs. 50,000/- (Rs. Fifty Thousand only). In default of payment of fine, he shall undergo rigorous imprisonment for two years.*
4. *For the offence punishable under section 376(2) (n) of the Indian Penal Code, the accused Pranay Shantaram Pal is sentenced to undergo rigorous imprisonment for 20 (twenty) years and to pay fine of Rs. 50,000/- (Rs. Fifty Thousand only). In default of payment of fine, he shall undergo rigorous imprisonment for two years.*
5. *Accused is acquitted under section 235(1) of Code of Criminal Procedure, for the offence punishable under sections 506, 363, 366-A of Indian Penal Code and section 7 punishable under section 8 of POCSO Act, 2012.*
6. *Substantive sentences to run concurrently.”*

2. The case of the prosecution is that, the Victim was residing with her mother, sister and brother. The Victim's father was working in Electricity Board. After her father's death, they came to reside as a tenant in the house of the Appellant. The Victim was a child aged 16 years. In March, 2021, the mother noticed that the Victim was not keeping good health. Victim was taken to the Doctor. The Victim was found to be pregnant. On inquiry with the Victim by her

mother, the Victim disclosed that the Appellant committed sexual intercourse with her. The Victim gave birth to baby girl. The Victim's mother lodged report with the concerned Police Station and crime bearing No.307/2021 came to be registered for the offences punishable under Sections 376(2)(n), 363, 366 and 506 of the Indian Penal Code and for the offences punishable under Sections 4, 6 and 8 of the Protection of Children From Sexual Offences Act, 2012 (for short, 'POCSO'). The investigation culminated into filing of Charge-Sheet. The trial was conducted. The prosecution examined the necessary witnesses. By the impugned Judgement and Order, the Applicant/Appellant came to be convicted as above.

3. It is submitted by the learned Advocate for the Applicant/Appellant that, the prosecution failed to prove that, the Victim was a child at the relevant time. The Applicant/Appellant had seriously challenged the date of birth and the age proof brought on record by the prosecution. The Appellant was 21 years of age at the relevant time. There is no evidence that, there was repetitive sexual intercourse by the Appellant with the Victim. The DNA report needs to be discarded as the chain of handling the sample is not proved. There was every possibility of the DNA sample getting contaminated. Suggestions were given that, the Victim and the Appellant were in love relations and she was residing in the house of the Applicant/Appellant as a tenant for about four months. The Appellant has a very good case on merit. Hence, the Application be allowed.

4. The Application is opposed by the learned A.P.P and learned Advocate for the respondent No.2 – Victim. They submit that, the Birth Certificate of the Victim is brought on record by the prosecution. From the date of birth mentioned in the said Certificate, the prosecution has established that, the Victim was a child at the relevant time. The DNA report concludes that, the Applicant/Appellant was the biological father of the baby girl born to the Victim. The Application be rejected.

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

6. As regards the date of birth and the age of the Victim is concerned, the prosecution is heavily relying on the copy of the Birth Certificate, which is brought on record in the evidence of the Victim. No doubt, the Birth Certificate is the public document. However, the defence has challenged the same. No witness is examined from the office from which the said Birth Certificate was issued. Though the Victim's mother in her evidence deposed the date of birth of the Victim, in her cross-examination, she admitted that when her daughter gave birth to the baby girl, the Victim was 18 years and 9 to 10 months old, though she volunteered that, she was not sure about 9 to 10 months. *Prima facie*, there is no concrete evidence in respect of the date of birth and age of Victim so as to establish that, the Victim was a child at the relevant time.

7. The evidence of the Victim shows that, the act of sexual intercourse by the Appellant with her took place once when the Appellant took her in the forest.

There is no evidence to show that there was repetitive sexual intercourse by the Applicant/Appellant on the Victim. In absence of the evidence for repeated sexual intercourse, the conviction for the offence punishable under Section 5(l) of the POCSO Act and under Section 376(2)(n) of the IPC will not be sustainable. Undisputedly, it can be seen from the testimony of the Victim that, she resided in the house of the Appellant on rent for about four months. The suggestions are given in the cross-examination that, there were love relations between the Applicant/Appellant and the Victim. Undisputedly, there was no disclosure of the sexual intercourse by the Appellant on her, until she was found to be pregnant. This is *prima facie* indicative of consensual relations.

8. In view of the above evidence available on record, the Applicant/Appellant has good case on merits and the possibility of success in the Appeal cannot be ruled out. The Applicant/Appellant is behind bar since four years. The Appeal is of 2025 and there is no likelihood, that the Appeal would be heard finally in the 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, (Court No.1), Hinganghat in Session Case No.21/2021 dated 24.06.2025 on the Appellant is Suspended during pendency of the present Appeal.

- iii] Applicant – Pranay s/o. Shantaram Pal 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.)**