



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

CRIMINAL APPLICATION NO.1023 OF 2025(APPA)
IN
CRIMINAL APPEAL NO.617 OF 2025

Nitesh Kahinath Aade 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 Orders.

Mr.M.V.Rai, Advocate for the Applicant/Appellant
Ms.Neerja Choubey Advocate appointed for the Victim
Ms.Sneha Dhote, APP for the State.

CORAM : NEERAJ P. DHOTE, J.

DATE : 17/02/2026

1. This is an Application for suspension of sentence imposed by the learned Special Judge (POCSO) Amravati in Special Case No.211 of 2020 by the Judgment and order dated 10.12.2025 convicting and sentencing the Appellant as follows:-

(i) *The accused is acquitted of the offences punishable under Sections 363 and 417 of the Indian Penal Code and Section 12 of Protection of Children from Sexual Offences Act, 2012, vide Section 235(1) of the Code of Criminal Procedure.*

(ii) *The accused is convicted vide Section*

235(2) of the Code of Criminal Procedure for committing the offence of rape under Section 376(2)(n) of the Indian Penal Code and for committing penetrative sexual assault on a child under Section 4 of the Protection of Children from Sexual Offences Act, 2012,

(iii) The accused is convicted vide Section 235(2) of the Code of Criminal Procedure for committing the offence of rape under Section 376(2)(n) of the Indian Penal Code and is sentenced to undergo rigorous imprisonment for 10 (ten) years and to pay a fine of ₹5,000/-, in default to suffer rigorous imprisonment for 3 (three) months.

(iv) In view of Section 33(8) of the POCSO Act read with Rule 7 of the POCSO Rules and Section 357A Cr.PC., the victim is held entitled to compensation. A total compensation of ₹ 50,000/- is awarded to the victim. Out of this amount, the accused shall deposit ₹25,000/- before this Court within two (2) months, and the remaining ₹25,000/- shall be paid by the District Legal Services Authority, Amravati, under the Victim Compensation Scheme. The amount shall be released to the victim or her lawful guardian for her rehabilitation.

(v) *The accused shall be entitled to set-off under Section 428 of the Code of Criminal Procedure for the period of detention already undergone during investigation, inquiry, and trial.*

2. Heard the learned Advocate for the Appellant and the learned APP for the State and learned Advocate for the respondent No.2. With their assistance, perused the papers.

3. It is the prosecution's case, that the minor daughter of the PW-3 was kidnapped by the Appellant and she was subjected to rape. Since, the Victim did not return home on 01.01.2020, the Victim's mother lodged the missing report for the offence punishable under Section 363 of the Indian Penal Code. The Police were successful in tracing the Appellant and the Victim. The statement of the Victim was recorded and Crime bearing No. 06 of 2020 came to be registered with the Gadge Nagar Police Station, Amravati for the offence punishable under Sections 363, 376(2)(n)(417) of the IPC and Sections 4 and 12 of the Protection of Children From Sexual Offences Act. After investigation the Appellant came to be charge-sheeted and tried and came to be convicted by the above referred Judgment and order.

4. According to the prosecution the Victim was above 17 years of age at the relevant time. No witness was examined to prove the recorded date of birth of the Victim. The Victim in her cross examination admitted that, she stayed with the Appellant for a period of one(1) and half(1/2) month. The suggestions are given that, there was love affair between the Victim and the Appellant. The Appellant was around 22 years of age at the relevant time. The Appellant was on bail during trial. The sentence imposed on the Appellant is the term sentence. The Appeal is of the year 2025 and there is no possibility that, it would come up for the final hearing in the near future. The Appellant has arguable case on merit. Hence, I proceed to pass the following order.

ORDER

[i] The Application is allowed.

[ii] The sentence imposed upon the Applicant Nitesh Kahinath Aade vide Judgment and order dated 10.12.2025 passed in Special Case No.211 of 2020 by the learned Special Judge (POCSO) Amravati is hereby suspended till the final disposal of the Appeal.

[iii] The Applicant/Appellant be released on bail on his furnishing personal bond of Rs.25,000/- (Rupees twenty five thousand only), with one surety in the like amount.

[iv] The Applicant shall co-operate in the early hearing of the Criminal Appeal.

[v] Application stands disposed off.

[vi] Bail before the Trial Court.

[vii] The fees of the learned appointed Advocate for Respondent No.2 -Victim be quantified at Rs.7,500/- [Rupees Seven Thousand and Five Hundred only], for the Application.

JUDGE