



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

CRIMINAL APPLICATION (APPA) NO. 66 OF 2026

IN

CRIMINAL APPEAL NO. 598 OF 2025

Samiullah Khan Abdul Hamid Khan Vs. The 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.PR.Agrawal, Advocate for the Appellant.
Ms.Sneha Dhote,APP for the State.
Ms. Varsha A.Warade Advocate (appointed) for the
Victim.

CORAM : NEERAJ P. DHOTE, J.

DATE : 24/03/2026

1) This is an Application for suspension of sentence awarded by the learned Special Judge (POCSO)Wardha in Special Case No.130 of 2021 by judgment and order dated 09.10.2025 convicting and sentencing the Appellant as follows:-

1. Accused Samiulla Khan S/o. Abdul Hamid Khan is hereby convicted for the offences punishable U/s. 377 of Indian Penal Code and Section U/s. 4 and 6 of POCSO Act vide section 248(2) of Code of Criminal Procedure, in Crime No.682/2021 registered at P.S. Ramnagar Wardha.

2. *He is hereby sentenced to undergo rigorous imprisonment for a term of 10 years, with fine of Rs.5,000/- in default R.I. for 6 months, for the offence punishable under section 377 of Indian Penal Code.*

3. *He is sentenced to suffer R.I. for 7 years, with fine of Rs. 5,000/- in default R.I. for 6 months. for the offence under Section 3(a) punishable under Sec. 4 of POCSO Act.*

4. *He sentenced to suffer R.I. for 20 years with fine of Rs. 5,000/- in default R.I. for 6 months for the offence under 5(m) punishable under Section 6 of POCSO Act (amended on 06.08.2019)*

5. *Accused to surrender his bail bonds.*

6 *All sentences to run concurrently.*

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2) The Crime was registered against the Appellant on the report lodged by the mother of six (6) years old boy that on 19.10.2021, the person by name Arman Shaikh came to her house and informed that the Appellant who was the Imam in the Masjid had called the Victim. Accordingly, the

mother sent the Victim to the Masjid to meet the Appellant. The Appellant committed carnal intercourse against the order of nature with the Victim and gave Rs.10/- to him and sent back. The Victim came home crying and narrated the incident to his mother. On the report lodged by the mother, the Crime No. 682 of 2021 came to be registered with the Ramnagar Police Station Wardha for the offence punishable under Sections 377 of the Indian Penal Code and for the offence punishable under Sections 6,8,10 and 12 of the POCSO and for the offence read with section 75 of the Juvenile Justice (Care and Protection of Children) Act, 2015. After the investigation, the Appellant came to be charge sheeted and after the trial came to be convicted.

3) Heard the learned Advocate for the Appellant and the learned APP for the State. The learned Advocate for the Respondent No.2 Victim. With their assistance perused the papers on record.

4) The Victim, who is examined as PW-2 deposed of the act of carnal intercourse against the order of nature by the Appellant on him in the Masjid. The incident is dated 19.10.2021. The Victim was referred for the medical examination on the same day and the evidence of PW-5 Medical Officer, who examined the Victim shows that he found no external injuries and found only one laceration

0.1.mm over the anal region. The cross-examination of this Medical Officer shows that, he was not sure as to whether the said laceration on the anal regions of the Victim may be due to any other reason. He admitted that, the age of the said injury was not mentioned and he had not done any specific examination and mentioned it approximately. He did not notice any swelling, bruises on the perineal region of the Victim. The evidence of Medical Officer shows that, he collected the biological samples of the victim i.e. blood (plain and EDTA), anal swab, right and left finger nail. The CA report at Exh.12 in respect of the samples of the Victim shows no semen or blood on the nail clippings, perineal swab and anal swab. The blood group was inconclusive. The evidence on record goes to show that, the Appellant was sent for medical examination and the medical report do not show any injury on his person. Even in the evidence of the PW-6 the medical officer, who examined the Appellant, it has come in the cross examination that, he did not find any sign of sexual intercourse after physically examining the Appellant. The medical report at Exh.84 brought in the evidence of this medical officer shows that, no bath was taken after the incident and clothes were not changed after the incident. The CA report below Exh.13 in respect of the samples of the Appellant shows no semen or blood on the pubic hairs, nail clippings, swab from urethral meatus and swab from glans. This prima facie indicate that, the scientific evidence ruled

out the possibility of the act deposed by the Victim against the Appellant.

5) The above relevant evidence on record indicate that, the Appellant has arguable case on merits. The Appellant was on bail during the trial. The Appeal is of the year 2025 and there is no possibility that it would come up for Final Hearing in the near future. Hence, I am inclined to pass the following order.

ORDER

[i] Criminal Application is allowed.

[ii] The sentence imposed upon the Applicant by the learned Special Judge Wardha in Special Case No.130 of 2021 by the judgment and order dated 09.10.2025 for the offence punishable under Sections 377 of the Indian Penal Code and Section 4 and 6 of POCSO Act is hereby suspended till the final disposal of Criminal Appeal.

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

[iv] Bail before the Trial Court.

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

[vi] Fees of the learned appointed Advocate for Respondent No.2 is quantified at Rs.7,500/- (Rupees seven

thousand five hundred only) for the Application. The same be paid accordingly by the High Court Legal Services Authority.

[vii] Application stands disposed off.

JUDGE