



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

CRIMINAL APPLICATION (APPA) NO.82 OF 2026

IN

CRIMINAL APPEAL NO. 43 OF 2026

Prashant Ramdas Thakre 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. R.M.Daga, Advocate for the Appellant/Applicant.
Ms.Sneha Dhote, APP for the State.
Ms.Garima Jain Advocate (appointed) for Respondent
no.2/non-applicant.

CORAM : NEERAJ P. DHOTE, J.

DATE : 30/03/2026

1) This is an Application for suspension of sentence imposed by the learned Additional Sessions Judge, Kelapur, District Yavatmal in Special Case Child Protection No.72 of 2023 convicting the Appellant as follows:-

1] Accused Prashant Ramdas Thakre, R/o. Naygaon Khurd, Tq. Wani, Dist. Yavatmal at present residing at District Prison, Yavatmal being Under Trial Prisoner is hereby found guilty and convicted for offences punishable under Section 376(2)(n), 506 of Indian Penal Code and Sections 4 and 6 of Protection of Children From Sexual Offences Act 2012 vide Section 235(2) of the Code of Criminal procedure.

2] Accused Prashant Ramdas Thakre is sentenced to suffer rigorous imprisonment for 10 years for the offence under Section 4 of Protection of Children

From Sexual Offences Act 2012 and shall pay fine of Rs.7,000/- (Rs. Seven Thousand only), in default to suffer R.I. for 06 months.

3] Accused Prashant Ramdas Thakre is sentenced to suffer rigorous imprisonment for 20 years for the offence under Section 6 of Protection of Children From Sexual Offences Act 2012 and shall pay fine of Rs.10,000/- (Rs. Ten Thousand only), in default to suffer R.I. for 06 months.

4] Accused Prashant Ramdas Thakre is sentenced to suffer rigorous imprisonment for 02 years for the offence under Section 506 of Indian Penal Code and shall pay fine of Rs.3,000/-(Rs. Three Thousand only), in default to suffer R.I. for 01 month.

5] In view of punishment imposed under Section 4 and 6 of Protection of Children From Sexual Offences Act 2012 in the light of provisions of 42 of Protection of Children From Sexual Offences Act 2012, no separate punishment under Section 376(2)(n) of Indian Penal Code is imposed upon accused Prashant Ramdas Thakre.

6] All sentences as mentioned above shall run concurrently.

7] As accused is in jail custody since the date of his arrest till date, set off be granted to the accused from the date of arrest of accused i.e. 04/07/2023 till date vide Section 428 of Code of Criminal Procedure, 1973.

8] Fine amount if recovered by the accused be paid entirely to the victim P.W.1 towards compensation after appeal period is over.

9] Recommendation is made to the District Legal Services Authority, Yavatmal to pay compensation to the victim P.W.1 within the ambit of Section 357(A)(2) of the Code of Criminal procedure 1973 and the copy of the judgment be forwarded to District Legal Services Authority, Yavatmal for further process.

10] As no muddemal is produced during trial, no need to pass any order regarding it.

11] Copy of this judgment shall immediately be given to accused free of cost vide Section 363(1) of the Code of Criminal Procedure 1973.

12] Copy of this judgment be forwarded and sent to the District Magistrate, Yavatmal vide Section 365 of the Code of Criminal Procedure 1973.

13] Accused is apprised of provision of appeal against this judgment. (Pronounced and dictated in presence of accused and learned APP for the state in open Court today.)

2) It is the case of the prosecution that, the Victim who was the child aged 17 years was subjected to sexual assault by the Appellant, firstly at her house and thereafter at the house of the Appellant. They both were known to each other and belonged to one community. The Appellant threatened her not to disclose the act committed by him on her to anybody. The Victim missed her menstrual cycle and suffered omitting. The Victim's mother took her to the hospital for examination. The Victim was found pregnant. The Victim disclosed the incident to her mother. The report was lodged with the Wani Police Station and Crime No.626 of 2023 came to be registered against the Appellant for the offence punishable under Sections 376(2)(n), 506 of the Indian Penal Code and under Section 4 and 6 of the Protection of Children From Sexual Offences, Act, 2012. After the investigation, the charge-sheet was filed and after the trial, the Appellant came to be convicted and sentenced as above.

3) It is submitted by the learned Advocate for the Appellant that, the prosecution failed to establish that, the Victim was the child. The history given to the Doctor, who examined the Victim for the first time was that of relationship. The evidence of the Medical Officer, who examined the Victim subsequent to First Information Report, shows that,

name of the Appellant was not disclosed by the Victim. Though the samples for DNA were taken, the DNA report was not brought on record by the prosecution. Only after the Victim was found to be pregnant, the report was lodged. The Appellant is having good case on merits and therefore, the sentence be suspended.

4) It is submitted by the learned APP that, by bringing on record the birth certificate of the Victim, it was proved that, the Victim was below 18 years of age and was thus a child. The Medical evidence on record supports the version of the Victim. The learned Trial Court recorded the conviction and sentenced on the basis of the evidence on record and therefore, no case for suspension was made out.

5) It is submitted by the learned Advocate for the Victim that, by bringing on record, the birth certificate, it was proved by the prosecution that, the Victim was the child. In such cases, the delay in recording the matter to the Police is not fatal. The Appellant is behind bars for a short period, therefore the Application cannot be considered.

6) With the assistance of both the sides, perused the evidence on record. To prove the age of the Victim, the prosecution relied on the birth certificate to show that, the Victim was 17 years of age. The said certificate was exhibited in the evidence of the Victim. It is the Victim, who deposed that, the contents of the said certificate was based on the official record. Undisputedly, the Victim was not the author of the said birth certificate. No competent witness was examined to prove as to on what basis the date of birth mentioned in the said certificate was recorded after a period of two years from the birth. The said birth certificate was issued after the FIR was lodged. Thus, prima facie, the evidence on record may not be sufficient to establish that, the Victim was the child.

7) The Victim's testimony shows that, the sexual act by the Appellant was committed on her several times, when she was alone at her residence. Only when the Victim omitted, her mother took her to the hospital and she was found pregnant and thereafter, the crime was lodged. In the evidence of the Doctor (PW-4), who examined the Victim it has come that, the Victim denied of sexual intercourse with anybody. Undisputedly, the DNA report is not on record to show that, the Appellant was the biological father of the fetus. The evidence of the Medical Officer (PW-6), who examined the Victim after lodging of FIR, shows that, in the history narrated by the Victim, the name of Appellant was not mentioned by him.

8) The above aspects of the matter, shows that, the Appellant has arguable case on merits and the possibility of success in the Appeal cannot be ruled out. The Appellant is behind bars from 04.07.2023. There is no possibility that, the Appeal would be heard finally in the near future. Hence, the following order:-

ORDER

[i] Criminal Application is allowed.

[ii] The sentence imposed upon the Applicant by the Additional Sessions Judge, Kelapur, District Yavatmal in Special Case Child Protection No.72 of 2023 for the offence punishable under Sections 376(2)(n),506 of the Indian Penal Code and for the offence punishable under Sections 4 and 6 of the Protection of Children From Sexual Offences Act,2012 (POCSO) is hereby suspended till the final disposal of Criminal Appeal.

[iii] The Applicant be released on PR.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/non-applicant is quantified at Rs.7,500/- (Rupees seven thousand five hundred only). The same be paid accordingly by the High Court Legal Services Authority.

[vii] Application stands disposed off.

JUDGE