



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

INTERIM APPLICATION NO.1842 OF 2023
IN
CRIMINAL APPEAL NO.774 OF 2025

Dilip Ramdev Kashab

.... Applicant

V/s.

The State Of Maharashtra

.... Respondent

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Mr.Harshwardhan Milind Pawar i/b Mr.Milind D. Pawar, for the
Applicant.

Mr.A.S. Gawai, APP, for the Respondent-State.

Ms.Kanchan Pawar, Appointed Advocate, for Respondent No.2.

Mr.N.B. Chapale, PSI, Sangvi Police Station, Pune.

CORAM : R.M. JOSHI, J.

DATE : 28th NOVEMBER 2025

P.C:-

. The Appellant/Applicant seeks suspension of
sentence and enlargement on bail in connection with the
judgment and order dated 23rd March 2022 passed in Special
POCSO case No.482 of 2018 whereby he is sentenced to suffer
15 years of RI with fine for the offences punishable under
Section 6 of Protection of Children from Sexual Offences Act,
2012 ('POCSO' for short)

2. The learned counsel for the Applicant submits that, it was burden on the prosecution to prove the age of the victim which has not been discharged herein. He drew attention of the Court to the evidence of the Investigating Officer who says that at the time of filing of the First information Report the Birth Certificate was obtained from the Informant and her parents. He drew attention of the Court to Birth Certificate on record which according to him indicate that, the same has been issued on 29th August 2018 i.e. after recording of FIR. In this backdrop it is his submission that, doubt is created as to the genuineness of the said document and unless document is to proved from the Competent Authority, it would be unsafe to rely upon the same. It is his further submission that, the cross-examination of the victim clearly indicate that, it was consensual relations between victim and Appellant. The Appellant is behind bar more than 3 years and as there is no likelihood of appeal be heard in short period of time he contends that the Appeal become infructuous.

3. The learned counsel for Respondent No.2-Victim and APP opposed the Application by contending that,

the consent of the minor is even if it is irrelevant. It is argued that, the offence has been proved against the Appellant and considering the period which he has undergone, this is not a case for enlargement of bail.

4. At this stage, the Court is required to consider as to whether there would be any reasonable chance of success of the Appellant. Without recording any findings on merit of the case, *prima facie* this Court find substance in the contention of the counsel for the Appellant that, he would be in a position to challenge the age of the victim, in view of the inconsistencies the evidence with regard to the date of birth. Apart from this the cross-examination of a victim indicates that, she was consenting party to the sexual relation and it is a case of love affair. Having regard to these facts, and more particularly since the Appeal is not likely to be heard in short period of time, following order.

ORDER

- (i) The substantive sentence imposed against the Appellant-Accused by judgment and order

judgment and order dated 23rd March 2022 passed in Special POCSO case No.482 of 2018 stands suspended till the decision of the Appeal.

(ii) The Appellant-Dilip Ramdev Kashab be enlarged on bail on furnishing PR Bond of Rs.15,000/- with one surety in the like amount.

(iii) The Appellant shall not contact the victim in any manner whatsoever directly or indirectly.

(iv) Bail before the Trial Court.

(v) In order to ensure that, the Appellant is available during the hearing of the Appeal, the Appellant to mark his attendance before the concerned Police Station once in six months.

(vi) Any breach of this condition will result the vacation of this order and the Appellant shall be taken in custody for undergoing the remaining sentence.

(R.M. JOSHI, J.)