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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No.869 of 2015
IN
CRIMINAL APPEAL No. 239 of 2015

Abhijeet @ Babalu Avinash Kadam ..Applicant.

Versus

The State of Maharashtra ..Respondent.

Mr Ujwal Agandsurve, Advocate for the Applicant.

Mr A.R. Patil, APP for the State.

CORAM : A.R.JOSHI,J

DATE : 2nd September,2015.

P.C. :

1) Heard the learned counsel for the applicant on this application for bail during pendency of the appeal and suspension of the substantive sentence. The applicant is convicted for the offence under section 6 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer RI for ten years and to pay fine of Rs. 20,000/-.

2) From the date of arrest i.e. from 27th March, 2013 the applicant is in custody till date. The allegations against the applicant are that in the evening of 26th March,2013 he committed such an act with the prosecutrix PW no.1 girl, then aged about eight years, so that the said act attracts the

definition of 'aggravated penetrative sexual assault' as defined under section 5 and punishable under section 6 of the Protection of Children from Sexual Offences Act. The substantive evidence of PW no.1 prosecutrix girl, along with the substantive evidence of her mother PW no.3, establishes the case against the present applicant and it was so held by the Trial Court, convicting him for the offence punishable under section 6 of the Protection of Children from Sexual Offences Act.

3) The defence raised on behalf of the applicant as to the girl falling on the elbow of the applicant while he was playing carrom board and thus causing severe injuries on the private part of the girl, was negated by the trial Court.

4) Considering the seriousness of the offence and the evidence of the prosecutrix and her mother coupled with the evidence of Dr Varsha Patil, PW no.5 Medical Officer who examined the girl on the next day i.e. 27th March, 2013, in the opinion of this Court, this is not a case that during the pendency of the appeal, present applicant can be released on bail. As such present application is dismissed and accordingly disposed of.

(A.R. JOSHI, J.)