

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 797 OF 2014
IN
CRIMINAL APPEAL NO. 908 OF 2014

Vadivel @ Gundappa Chinnatambi Devendra	Applicant
vs.	(Orig. Accused)
The State of Maharashtra	Respondents
...	

Mr.V.V.Purwant, Advocate for the applicant
Mrs.R.V.Newton, APP, for the respondent-State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 29th January, 2015.

P.C.

Heard. This is an application under Section 389 of the Code of Criminal Procedure, 1973. The applicant herein is convicted for the offence punishable under Sections 366, 377, 354, 506, 509 of IPC read with Section 4 of the Protection of Children from Sexual Offences Act, 2012 in Sessions Case No. 292 of 2013 by the Designated Court vide judgment and order dated 28.8.2013.

2. Perused the notes of evidence. The learned counsel for the applicant submits that upon consideration of the substantive evidence of PW-5 i.e. script of the first information report and the statements of witnesses, prima facie, only offence under Section 354 of IPC would be made out and therefore, the applicant

deserves to be enlarged on bail during the pendency of the appeal, more so since the applicant is in jail since 1.2.2013.

3. As against this, the learned APP has placed reliance upon the substantive evidence of the victim. Upon perusal of the same, it prima facie appears that the act of the applicant is an act of a pervert mind. The girl was a minor who was hardly 9 years old at the time of incident. She was studying in IV Std. In view of this, the applicant does not deserve to be enlarged on bail during the pendency of the appeal. Hence, the application under Section 389 of Cr.P.C. seeking suspension of substantive sentence is sans merit and deserves to be rejected.

4. However, the preparation of paper book is expedited.

5. Call for record and proceedings along with the paper book within four months from today.

6. Liberty to circulate the appeal for final hearing upon receipt of the record and proceedings and the paper book.

(SMT.SADHANA S.JADHAV, J.)