

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 271 OF 2016
IN
CRIMINAL APPEAL NO. 159 OF 2016

Balaji Vitthal Reddy. ... Applicant.

Versus

The State of Maharashtra & anr. ... Respondents.

Mr. Vijay Killedar, advocate for Applicant.

Mr. Rajesh More, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : MARCH 7, 2016

P.C.:

1 Heard the learned Counsel for the applicant and the learned
APP for State.

2 This is an application under Section 389 of the Code of Criminal
Procedure, 1973 seeking suspension of substantive sentence imposed
upon the applicant. The applicant herein is convicted for the offence

punishable under Section 354 of the Indian Penal Code and section 8 and 10 of the Protection of Children from Sexual Offences Act and sentenced to suffer R.I. for 5 years and to pay fine of Rs. 5,000/- i.d. to suffer S.I. for 3 months, by the Special Judge and Additional Sessions Judge, Sangli in Special Case (POCSO) No. 170 of 2013 vide Judgment and Order dated 9/2/2016.

3 The learned Counsel for the applicant submits that the applicant was on bail during the pendency of the trial and has not committed breach of any condition imposed upon him and hence, deserves extension of the same relief during the pendency of the appeal. It is further submitted that the sentence imposed upon the applicant is a short term sentence. It is not likely that the appeal would be taken up for final hearing in the near future.

4 Reliance can be placed upon the Judgment of the Apex Court in the case of **Kiran Kumar v/s. State of M.P. 2001 AIR SCW 5130** for seeking suspension of substantive sentence during the pendency of

the appeal which cannot be heard at the earliest thereby causing the prayer to become infructuous. In view of this, the applicant deserves to be enlarged on bail during the pendency of the appeal.

5 Hence, following order :

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicant is hereby suspended. He be enlarged on bail. Same bail fresh bond.
- (iii) The applicant shall furnish his residential address, contact numbers like landline number, cell phone numbers etc. to the concerned Court.
- (iv) The applicant shall report to the Court of Special Judge and Additional Sessions Judge-2, Sangli once in 6 months on the date specified by the concerned Court. Upon failure to report by the

applicant to the concerned court, the prosecution is at liberty to move for cancellation of bail.

6 The application is disposed of accordingly.

The parties to act on the authenticated copy of this order.

(SMT. SADHANA S. JADHAV,J)