

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO. 339 OF 2016
IN
CRIMINAL APPEAL NO. 177 OF 2016

Manjal Kenge Gauda

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Ajit Kenjale i/b Mr. Rajesh L. Dharap Advocate for the Applicant.
Mr. S. S. Pednekar APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : MARCH 22, 2016.

PC :

Heard. This is an application under section 389 of Code of Criminal Procedure, 1973 seeking suspension of substantive sentence. Applicant herein is convicted by Special Judge under P.O.C.S.O. Act for offence punishable under section 8 of Protection of Children from Sexual Offences Act, 2012 and is sentenced to suffer rigorous imprisonment for 3 years and fine of Rs. 1500/- in default to suffer simple imprisonment for 15 days, he is also convicted for offence punishable under section 354 of Indian Penal Code, however, no separate sentence is awarded in Sessions Case

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No. 451 of 2014 vide Judgment and Order dated 28/01/2016.

2) Learned counsel for the applicant submits that initially offence registered against applicant was only under section 354 of Indian Penal Code, however, charge was framed under section 8 of Protection of Children from Sexual Offences Act, 2012. Learned counsel submits that prosecution has failed to prove the guilt of the accused beyond reasonable doubt and that the applicant has a good case on merits. Learned counsel also submits that since applicant was on bail during the pendency of trial, learned Special Judge has extended the bail to enable the applicant to file appeal.

3) Taking into consideration the fact that sentence imposed upon the applicant is a short term sentence, this Court is inclined to enlarge the applicant on bail during the pendency of appeal.

4) Hence, following order.

ORDER

(i) Application is allowed.

(ii) The substantive sentence imposed upon the applicant is hereby suspended and he be enlarged on bail, same bail fresh bonds.

- (iii) Applicant shall furnish fresh bail bonds before Special Court (P.O.C.S.O. Act), Gr. Bombay within 3 weeks from today. Upon failure to furnish fresh bail bonds within stipulated time, Learned Special Judge shall issue non-bailable warrant against accused calling upon him to serve rest of the substantive sentence.
- (iv) Applicant shall attend Court of Special Judge under P.O.C.S.O. Act, Gr. Bombay, on the date as directed by the said Court, till the conclusion of appeal.
- (v) Upon failure to attend any two consecutive dates, prosecution would be at liberty to seek cancellation of bail.
- (vi) Application stands disposed of.
- (vii) Parties to act on authenticated copy of this order.

(SMT. SADHANA S. JADHAV, J.)