

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO. 370 OF 2016
IN
CRIMINAL APPEAL NO. 207 OF 2016

Rammanohar Ramlakhan VarmaApplicant

V/s.

The State of MaharashtraRespondent

Mr. R. S. Dubey Advocate for Applicant.

Mr. S. S. Pednekar APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : APRIL 20, 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 for offence punishable under section 11 r/w section 12 of Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer simple imprisonment for 3 years and fine of Rs. 3000/- in default to suffer further simple imprisonment of 6 months. He is also convicted for offence punishable under section 354 of Indian Penal Code and sentenced to suffer simple imprisonment for 2 years and fine of Rs. 1,000/- in default to suffer further simple imprisonment for 3 months. He is also convicted for offence punishable under section 363 of Indian Penal Code and sentenced to

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suffer rigorous imprisonment for 3 years and fine of Rs. 1000/- in default to suffer further simple imprisonment of 3 months in Sessions Case No. 859 of 2013 by City Civil and Sessions Court, Greater Mumbai vide Judgment and Order dated 06/02/2016.

2) Learned counsel for the applicant submits that in the present case, prosecution has failed to record the statement and evidence of the victim who was 5 years old and this aspect goes to the root of the matter. According to learned counsel applicant has been falsely implicated by father of the alleged victim. It is further submitted that applicant was on bail during the pendency of trial and has not committed breach of any conditions imposed upon him. The sentence imposed upon the applicant is a short term sentence. In view of this, following order.

ORDER

- (i) Application is allowed.
- (ii) The substantive sentence imposed upon the applicant is hereby suspended.
- (iii) Applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 20,000/- and one or more sureties in the like amount.

- (iv) Applicant shall be released of provisional cash bail of Rs. 20,000/- for the period of 4 weeks during which period, applicant shall furnish bail bonds.
 - (v) Upon failure to furnish bail bonds within the stipulated time, learned Sessions Judge shall issue non-bailable warrant against the applicant calling upon him to serve the substantive sentence.
 - (vi) Applicant shall attend City Civil and Sessions Court, Greater Mumbai, once in six months on the date specified by the Sessions Judge, till the conclusion of appeal.
 - (vii) Upon failure to attend any two consecutive dates, prosecution would be at liberty to seek cancellation of bail.
- 3) Application stands disposed of in the above terms.
 - 4) Parties to act on authenticated copy of this order.

(SMT. SADHANA S. JADHAV, J.)