

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 384 OF 2016
in
CRIMINAL APPEAL NO. 220 OF 2016

Mohammed Tausif S/o Mohammed Ayyub Siddiqui..Applicant

vs.

The State of Maharashtra

...

Respondent

Mr. Anand Patil i/b. Mr. Mohsin Khan Latif Khan, Advocate for the applicant.

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

CORAM: SMT. SADHANA S.JADHAV, J.

DATE : 18th March, 2016.

P.C.

This is an application under Section 389 of Cr.P.C. seeking suspension of substantive sentence.

2. The applicant is convicted for the offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer S.I. for 3 years and fine of Rs.500/- in default further S.I. for 7 days by the Designated Judge under the Protection of Children from Sexual Offences Act, 2012, for Greater Bombay in POCSO Special Case No.711 of 2013 vide judgment and order dated 20.2.2016.

3. Perused the substantive evidence of the victim. It appears that the victim was about 17 years old at the time of incident. It prima facie appears that the applicant was indulged into stalking. The applicant is also convicted for the offence punishable under Sections 354A, 354D and 509 of the Indian Penal Code. However, no separate sentence is awarded.

4. The learned counsel for the applicant submits that the applicant was in custody from 25.5.2013 to 20.2.2014 and thereafter was enlarged on bail and remained on bail till 20.2.2016. The learned counsel for the applicant submits that the applicant has not committed breach of any conditions imposed upon the applicant. That the sentence imposed upon the applicant is a short-term sentence and hence he deserves to be enlarged on bail during the pendency of the appeal. Hence, the following order :-

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicant is suspended.
- (iii) He be enlarged on bail. Same bail, fresh bonds.
- (iv) The applicant shall furnish bail bonds before the Special Court within three weeks from today. Upon failure to furnish bail bonds within

three weeks, the learned Special Judge shall issue non-bailable warrant against the applicant calling upon him to serve the rest of the substantive sentence.

(v) The applicant shall report to the Court of Special Judge, Greater Bombay, once in six months on the dates specified by that Court.

(vi) In case of failure to attend the said Court on any two consecutive dates, the prosecution shall be at liberty to move for cancellation of bail.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)