

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL APPLICATION NO. 610 OF 2016
IN
CRIMINAL APPEAL NO. 342 OF 2016

Ganesh Balasaheb SuryavanshiApplicant

V/s.

The State of MaharashtraRespondent

Ms. Anjali Patil Advocate for Applicant.

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

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : MAY 2, 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 6 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for 10 years and fine of Rs. 3,000/- in default to suffer rigorous imprisonment for one month by Special Judge, Pune in Special Case No. 57 of 2015 vide Judgment and Order dated 12/04/2016.

2) Learned Special Judge has recorded the substantive evidence of the victim who was declared hostile by the prosecution. Victim has deposed

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before the court that since childhood she was acquainted with the applicant and there was a love affair between them. That they had physical relationship. She conceived pregnancy and her mother realized the same. She was taken to Sasoon General Hospital on 18/10/2014 where she delivered the male child. She has been declared hostile. She has categorically deposed before the court that accused had not established physical relationship with her against her will.

3) Learned counsel for the applicant submits that victim is present in the Court along with her parents. She further submits that although the victim was a child as per the definition under the provisions of Protection of Children from Sexual Offences Act, 2012, she had sufficient understanding. That she was in love with the applicant. The child is almost 1 year and 9 months old. Learned counsel for the applicant further submits that applicant desires to marry her. That applicant was on bail during the pendency of trial and has not committed breach of any conditions imposed upon him. Learned counsel further submits that applicant desires to take care of the victim as well as their child.

4) Taking into consideration all these circumstances, applicant deserves to

be enlarged on bail during the pendency of the appeal.

ORDER

- (i) Application is allowed.
 - (ii) The substantive sentence imposed upon the applicant is hereby suspended. He be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- with one or more sureties in the like amount.
 - (iii) Applicant shall report to Special Court, Pune once in six months, on the date as specified by the Special Judge, till the conclusion of appeal.
 - (iv) Upon failure to attend any two consecutive dates, prosecution would be at liberty to seek cancellation of bail.
 - (v) Parties to act on authenticated copy of this order.
- 5) Application is allowed and disposed of in the above terms.

(SMT. SADHANA S. JADHAV, J.)