

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 614 OF 2016
IN
CRIMINAL APPEAL NO. 343 OF 2016

1 Abhijit Mahendra Gawali.
2 Kumar Vilas Sarode. ... Applicants.

Versus

The State of Maharashtra. ... Respondent.

Mr. Tapan Thatte, advocate for Applicants.

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

CORAM : SMT.SADHANA S. JADHAV,J
DATE : MAY 3, 2016

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for State. Perused the papers.

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

punishable under Section 354-A (I) read with 34 of the Indian Penal Code and sentenced to suffer R.I. for one year and to pay fine of Rs. 1000/- each in default to suffer further R.I. for one month each. They are also convicted for the offence punishable under Section 324 read with Section 34 of the Indian Penal code and each of them is sentenced to suffer R.I. for one year and to pay fine of Rs. 1,000/- each in default to suffer further R.I. for one month each. They are also convicted for the offence punishable under Section 323 read with section 34 of the Indian Penal Code and each of them is sentenced to suffer R.I. for 3 months and to pay fine of Rs. 500/- each in default to suffer further R.I. for seven days each. The applicants are also convicted for the offence punishable under Section 7 and 8 of the Protection of Children from Sexual Offences Act, 2012 and each of them is sentenced to suffer R.I. for 3 years and to pay fine of Rs. 1,000/- each in default to suffer further R.I. for none months each by Special Judge, Pune in Special Case No. 54 of 2013 vide Judgment and Order dated 31/3/2016.

3 Learned Counsel for the applicants submits that the applicants were on bail during the pendency of trial and have not committed breach of any condition imposed upon them and hence, they are entitled to extension of the same relief during the pendency of the appeal. It is further submitted that the sentence imposed upon the applicants is a short term sentence and it is not likely that the appeal would be heard in the near future.

4 Perused the substantive evidence of the victim who happens to be 17 years old. She has stated before the Court that the applicants herein had outraged her modesty by passing lewd remarks. Her mother shouted at them. Hence, the applicants had assaulted her mother and brother. Perused the injury certificate which reveals that the mother and brother of the victim had sustained contusion and abrasions. That according to the victim, her statement was recorded before the Judicial Magistrate First Class on 30th July, 2013 and on 15/8/2013 her supplementary statement was recorded.

5 Taking into consideration the facts of the case and the
submissions advanced across the bar, the applicants deserve to be
enlarged on bail.

6 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicants is hereby
suspended. The applicants be enlarged on bail on furnishing P.R.
Bond in the sum of Rs. 20,000/- each and one or two sureties in the
like amount.
- (iii) The applicants shall furnish bail bond within four weeks from
today. Upon failure to furnish the bail bond, the learned Special
Judge shall issue non-bailable warrant against the applicants calling
upon them to serve the rest of the sentence.
- (iv) The applicant shall report to the Special Judge, Pune once in 6
months on the date specified by the concerned court. Upon failure to

attend any two consecutive dates by the applicants, the prosecution is at liberty to move for cancellation of bail.

(v) The applicants shall furnish their residential address, their contact numbers such as cell phone numbers, landline numbers etc. to the concerned Court.

7 The Application is disposed of on the above terms.

(SMT. SADHANA S. JADHAV,J)