

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1110 OF 2016

IN

CRIMINAL APPEAL NO.598 OF 2016

ANKUSH BABU JADHAV

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Shailesh Kantharia, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent - State.

CORAM : P N. DESHMUKH, J.

DATE : 27th SEPTEMBER 2016.

P.C. :

1 This application is filed for suspension of substantive sentence imposed upon applicant and for grant of bail. Applicant is found guilty for the offences punishable under Section 354A of the IPC and under Section 8 of Protection of Children from Sexual Offences Act (POCSO Act) and on conviction is sentenced to suffer rigorous imprisonment for 3 years and to pay a fine of Rs.500/-, in default, to suffer simple imprisonment for one month.

2 Learned counsel for applicant submits that applicant was on bail pending trial and has further contended that on his conviction, his sentence was suspended by the learned Sessions Judge, till appeal period is over, by its order dated 22nd August 2016. It is, therefore, prayed that substantive sentence imposed upon applicant as aforesaid, be suspended and he be released on bail by imposing suitable conditions. It is also contended that though according to case of prosecution the alleged incident has taken place in front of a classroom, no independent witnesses to substantiate said fact are examined by the prosecution to corroborate the statement of prosecutrix and as such, non-examination of such material witnesses, demonstrates that no such incident has ever occurred.

3 Record reveals that applicant came to be convicted as aforesaid by the judgment and order dated 22nd August 2016, while the sentence imposed as aforesaid was suspended on the same day till appeal period is over. Appeal is filed on 31st August 2016, that is within limitation.

4 Considering the term of sentence imposed upon applicant to the extent of 3 years and as applicant was on bail pending trial, and

as it is no case of prosecution that while on bail, he has misused the liberty granted to him, application is liable to be allowed :

- i) Applicant shall be released on bail on his executing P.R.Bond in the sum of Rs.15,000/- with one surety in like amount.
- ii) While on bail, applicant shall mark his presence with Samata Nagar Police Station, Kandivali, once in three months, on the first day of such month, pending appeal.
- iii) Applicant shall provide proof of his residence to the Investigating Officer and change in address in future, if any, to the concerned police station.
- iv) Application is allowed in above terms.

(P. N. DESHMUKH, J.)