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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION No. 1819 OF 2018
IN
CRIMINAL APPEAL No. 1303 OF 2018

Ramchandra Govind Jadhav	...Applicant
Vs.	
The State of Maharashtra	...Respondent

Mr. Jagdish Kumar Sanjeev Hegde for Applicant	
Mr. S.S. Pednekar -APP for the State	

CORAM : SMT.SADHANA S. JADHAV, J.

DATE : NOVEMBER 26, 2018

P.C.:

1. This is an application under section 389 of Cr.P.C. The Applicant herein is convicted for an offence punishable under section 10 of the Protection of Children from Sexual Offence Act, 2012 (POCSO Act) and sentenced to suffer simple imprisonment for five years and to pay the fine of Rs.10,000/- , in default, to suffer simple imprisonment for two months. The Applicant is also convicted under section 451 of the Indian Penal Code and sentenced to suffer simple imprisonment for six months and to pay fine of Rs.5,000/- and in default to suffer simple imprisonment for one month. He is also convicted for the offence punishable under section 354 of the Indian Penal Code. However, no separate sentence has been awarded.

2. The learned counsel for the Applicant submits that the Applicant is 71 years' old. That the Applicant was not granted bail during the pendency of the trial.

3. Perused the evidence of the victim. She has deposed before the Court that on 26th March, 2018, the Applicant had been to the house of the victim as he was well acquainted with her father being the member of management committee of the caste/panchayat. That he went to her house and embraced her. Besides that there is no other allegation .

4. The learned counsel for the Applicant submits that in fact he was well acquainted with the father of the victim and on that day he had gone to meet the father of the victim and had playfully called the little child near him, however, the said incident is blown out of proportion.

5. The act of the Applicant even if taken as it is does not fall under section 9 of the POCSO Act, 2012 as he was neither a police officer nor he was on duty as a police officer or any other services. He was also not a public servant or on the management or on the staff of a jail or remand home etc. That the incident has been blown out of proportion. The Applicant has been convicted

and sentenced to a short term sentence. The Court is hearing the appeals of the year 2012-2014 and, therefore, the present appeal may not be heard in near future. In view of the judgment of the Apex Court in the case of Kiran Kumar v/s. State of M.P. 2001 AIR SCW 5130, the application seeking bail deserves to be allowed. Hence, following order.

ORDER

- (i) The substantive sentence imposed on the Applicant is hereby suspended.
- (ii) The Applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 50,000/- and one or more solvent sureties in the like amount.
- (iii) The Applicant shall report to the Special Court (POCSO), Ratnagiri once in six months on the scheduled date given by the Court.
- (iv) Upon failure to attend any two consecutive dates, the Special Court shall report to the High Court and the prosecution would be at liberty to file an application for cancellation of bail.

Criminal application stands allowed and disposed of in the aforesaid terms.

[SMT.SADHANA S. JADHAV, J.]

V.A. Tikam