

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.636 OF 2018

IN

CRIMINAL APPEAL NO.439 OF 2018

Mr.Rakesh Chedilal Gupta ... **Applicant**

V/s.

The State of Maharashtra ... **Respondent**

.....

Mr.Hardik Vyas, Advocate for the Applicant.

Ms.Anamika Malhotra, APP for the Respondent/State.

....

CORAM : A.M.BADAR J.

DATED : 18th JULY 2018.

P.C. :

1 This is an application for suspension of sentence imposed on the applicant/accused and releasing him on bail during pendency of the appeal filed by him.

2 The applicant/accused is convicted of the offence punishable under Section 10 of the Protection of Children from Sexual Offences Act and he is sentenced to suffer rigorous imprisonment for five years apart from payment of fine of Rs.10,000/- and in default sentence of six months on failure to pay the said amount.

3 Heard the learned Counsel appearing for the applicant, as well as the learned Additional Public Prosecutor.

4 The learned Additional Public Prosecutor opposed the application by contending that offence alleged is duly held to be proved against the applicant/accused and considering the nature of offence, the applicant/accused is not entitled for bail.

5 The impugned Judgment shows that during pendency of the trial, the applicant/accused was on bail. Perusal of evidence of the victim child goes to show that her evidence suffers from inconsistency. Her recitals of the incident to her mother are totally different than what she has stated before the Court. That apart, short sentence of five years has been imposed on the applicant/accused and he was already on bail during pendency of the trial. There is nothing to demonstrate that the applicant has misused his liberty while on bail. It is seen that the applicant/accused has already deposited the amount of fine imposed on him. The appeal filed by him is not likely to be heard within short period. Hence, the Order :

ORDER

- (i) The application is allowed.

- (ii) The substantive sentence of imprisonment imposed on the applicant/accused is suspended and he is directed to

be released on bail on his executing P. R. Bond of Rs.15,000/- and on furnishing surety in the like amount.

(iii) As a condition of this Order, the applicant/accused should not repeat similar offence in future. He should not contact either the victim child or her relatives in any manner during pendency of the appeal.

(iv) The application is disposed of accordingly.

Raju
Dattatraya
Gaikwad

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(A.M.BADAR J.)