

Santosh

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 959 OF 2017
IN
CRIMINAL APPEAL NO. 171 OF 2018

Sarang Malhari Pawar ...Applicant

Versus

The State of Maharashtra ...Respondent

Mr. S. R. Phanse, Appointed Advocate for the Applicant.
Mr. A. R. Kapadnis, APP for the Respondent/State.

CORAM: A. S. GADKARI, J

DATED: 7th March, 2018

P.C.:-

1. This is an application received through jail.
2. Heard Mr. Phanse, the learned Counsel appointed by the Legal Aid Committee to represent the applicant.
3. By the present application, the applicant has claimed that his date of birth is 25th April, 1995 and on the date of commission of the offence i.e. 15th March, 2013, he was below 18 years of age, and therefore, the benefit of provisions of Juvenile Justice (Care and Protection of Children) Act, 2000 be given to him.

4. Mr. Phanase, the learned Counsel appearing for the applicant submitted that the Supreme Court in the case of *Ashwini Kumar Saxena vs. State of Madhya Pradesh* reported in (2012) 9 Supreme Court Cases 750, while interpreting the various provisions of the said Act has enumerated the principles in enacting the said Act and in view of the said judgment, the present application of the applicant claiming juvenility may be referred before the Trial Court for conducting an enquiry as contemplated under Section 7(a) of the said Act.

5. In view of Section 7(a) of the Juvenile Justice (Care and Protection of Protection) Act, 2000 and the decision of the Supreme Court in the case of *Ashwini Kumar* (supra), the present application preferred by the applicant is hereby referred to the Trial Court i.e. the learned Designated Judge under the Protection of Children from Sexual Offences Act, 2012 ('POSCO', for short) for conducting an enquiry as contemplated under Section 7(a) of the Juvenile Justice (Care and Protection) Act. The learned Judge of the Trial Court is hereby directed to conduct the said enquiry as expeditiously as possible and as per the provisions of Juvenile Justice (Care and Protection) Act and submit a report regarding the age of the applicant on the date of commission of crime i.e. 15th March, 2013 to this Court.

6. The application is accordingly disposed of.

7. The Registry is directed to communicate this order to the applicant, who is lodged in Nashikroad Central Jail, Nashik.

[A. S. GADKARI, J.]