

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1456 OF 2018

IN

CRIMINAL APPEAL NO.1063 OF 2018

Nishant Harishchandra Salvi ... **Applicant**

V/s.

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

.....

Mr.Silvin Y. Kale, Advocate for the Applicant.

Mr.S.V.Gavand, Advocate for the Respondent/State.

....

CORAM : A.M.BADAR J.

DATED : 11st SEPTEMBER 2018.

P.C. :

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

2 The applicant/accused is convicted of offence
punishable under Section 354-A of the Indian Penal Code, under
Section 7 read with Section 8 as well as under Section 10 of the
Protection of Children from Sexual Offences Act, 2012 (hereinafter
referred to as 'POCSO' for the sake of brevity). The learned trial

Court had directed that all substantive sentences shall run concurrently. The highest sentence imposed on the applicant/accused is that of rigorous imprisonment for five years for the offence punishable under Section 10 of the POCSO.

3 Heard the learned Advocate appearing for the applicant/accused. He argued that during pendency of the trial, the applicant was on bail and he has not misused his liberty. It is further argued that short sentence of imprisonment is imposed on the applicant/accused. There is delay in filing the FIR and during the period of two months, the victim child was regularly attending the classes. The applicant was also visiting her house during this period. The witnesses are influenced witnesses from the NGO.

4 The learned Additional Public Prosecutor opposed the application by contending that the applicant/accused being teacher has misused his position by sexually exploiting the victim as and when she was attending classes at Apnalaya NGO and, therefore, he need not be released on bail.

5 I have carefully considered the rival submissions and also perused the copies of depositions of prosecution witnesses and the impugned Judgment of conviction and resultant sentence.

6 Undisputedly, the applicant was on bail during

pendency of the trial and short sentence of five years is imposed on him. Considering the pendency of appeals before this Court, the appeal filed by the applicant/accused may not be heard within the period of five years.

7 In this view of the matter, by imposing certain conditions, the applicant/accused can be released on bail.

Therefore, 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 contact the victim child or any of the prosecution witnesses in any manner and he should not repeat commission of similar offence.
- (iv) Failure to abide by these conditions shall entail the prosecution to apply for cancellation of bail granted to the applicant/accused.

- (v) Initially, for a period of four weeks, the applicant/accused be released on furnishing cash security of Rs.15,000/-.
- (vi) The application is disposed of accordingly.
- (vii) Parties to act on authenticated copy of this Order.

(A.M.BADAR J.)

Raju
Dattatraya
Gaikwad

Digitally signed by
Raju Dattatraya
Gaikwad
Date: 2018.09.11
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