

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1741 OF 2018
IN
CRIMINAL APPEAL NO. 1290 OF 2018

Mahesh Raghuveer Chari.

..Applicant.

V/s.

State of Maharashtra & anr.

..Respondents.

Mr. Sunny Singh, advocate for applicant.

Mr. S.H. Yadav, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : DECEMBER 18, 2018.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 Pursuant to the order dated 10/12/2018 passed by this Court, accused/applicant has surrendered before the Special Judge, Greater Mumbai on 15/12/2018 and is in custody.

3 This is an application under section 389 of the Code of Criminal Procedure, 1908. The applicant herein is convicted for the offence punishable under section 8 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer R.I. for 3 years and to pay fine of Rs. 500/- I.d. to suffer S.I. for 15 days. The applicant is also convicted for the offence punishable under section 354 of the Indian Penal Code. He is also directed to pay compensation of Rs. 10,000/- to

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the victim girl as per the section 33(8) of the Protection of the Children from Sexual Offences Act, 2012. The amount of compensation has been deposited in the court on 21/8/2018.

4 The learned Counsel for the applicant submits that the sentence imposed upon the applicant is short term sentence. The applicant was on bail during the pendency of the trial and has not breached any conditions imposed upon him. Hence, he deserves to be granted bail during the pendency of the appeal.

5 The sentence imposed upon the applicant is short term sentence. This Court is hearing appeal of the year 2014 and hence, it may not be possible to hear the present appeal at the earliest. In view of the Judgment of the Hon'ble Apex Court in the case of **Kiran Kumar v/s. State of M.P. 2001 AIR SCW 5130**, the applicant deserves to be enlarged on bail. It is made clear that suspension of sentence shall not be construed as suspension of conviction.

6 Hence following order is passed :

ORDER

(i) The application is allowed.

(ii) The substantive sentence imposed upon the applicant vide Judgment and Order dated 3/8/2018 passed by the Special Judge under POCSO Act, Gr. Bombay in Special Case No. 270 of 2014 is hereby suspended and the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 20,000/- and one or more solvent sureties in the

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like amount.

(iii) The applicant be enlarged on provisional cash bail of Rs.20,000/- and he shall furnish solvent sureties within 6 weeks from the date of his release.

(iv) The applicant shall report to the Special Court under POCSO Act, Gr. Bombay once in 6 months on the date specified by the concerned Special Judge under POCSO Act, Gr. Bombay. Upon failure to attend on two consecutive dates, the Special Court under POCSO Act, Gr. Bombay shall report the same to the High Court and the prosecution would be at liberty to file an application for cancellation of the bail.

7 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]