

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.1869 OF 2018
IN
CRIMINAL APPEAL No.1348 OF 2018**

Vijay Kumar Balkrishna Nayar @ Chakkoli ... Applicant

Vs.

The State of Maharashtra ... Respondent

Mr.Pracheta Rathod for the Applicant
Ms.Rutuja Ambekar, APP, for the Respondent – State

CORAM: Mrs.MRIDULA BHATKAR, J.

DATED: NOVEMBER 2, 2018

P.C.:

1. Upon urgent mentioning, taken on Production Board.
2. The applicant/accused is convicted vide judgment and order dated 1.11.2018 passed by the learned Special Judge under the Protection of Children from Sexual Offences Act, 2012 for the offence under section 28 of and he is sentenced to suffer R.I. for 5 years and pay a fine of Rs.1,000/-, i/d to suffer S.I. for 30 days.
3. The learned Counsel appearing for the applicant submits that the applicant was on bail throughout the trial. She submits that

the applicant/accused is not residing in the building where the victim is residing, since grant of bail. She submits that she submits that the applicant/accused has two children – one 24 years old mentally retarded son and another 21 years old daughter and his wife does not stay with him. So, he has to take care of the two children. She, therefore, prays for grant of bail.

4. Learned Prosecutor while opposing the bail, submits that the wife can take care of his mentally retarded son.

5. Considered the submissions of the learned Counsel. Perused the impugned order. The appellant was on bail throughout the trial and he has not indulged into any criminal activity during the bail period. Also, there are less chances of the appeal coming up for hearing in near future. Perused the Certificate issued by the J.J. Group of hospitals, which discloses that the son of the applicant, namely, Siddharth Nair, is a bonafide mentally retarded person. In view of this, the bail application is allowed on the following terms:

- i) The impugned conviction and sentence dated 1.11.2018 passed in Sessions Case No.169 of 2014 by the

Sessions Court, Mumbai is suspended pending appeal.

ii) The applicant/accused be released on bail upon furnishing P.R. Bond in the sum of Rs.15,000/- with one or two sureties in the like amount.

iii) Provisionally, the applicant is permitted to be released on cash bail of Rs.15,000/- till he furnishes surety in the like amount by 7th December, 2018.

iv) The applicant/accused shall not commit any such offences in future.

6. Application is disposed of accordingly.

(MRIDULA BHATKAR, J.)