

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1870 OF 2018
IN
CRIMINAL APPEAL NO. 1351 OF 2018

Swapnil Vishwas Shinde.

..Applicant.

V/s.

The State of Maharashtra.

..Respondent.

Mr. Satyavrat Joshi, advocate for applicant.

Mr. S.S. Pednekar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : NOVEMBER 28, 2018.

P. C. :

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

2 This is an application under section 389 of the Code of Criminal Procedure, 1908 seeking suspension of substantive sentences imposed upon him by Special Judge, Pune(under POCSO Act) vide Judgment and Order dated 29/10/2018 in Special (C)Sessions Case No. 362 of 2014, by which the applicant is convicted for offence punishable under section 354 of the Indian Penal Code and sentenced to suffer R.I. for one year and fine of Rs. 500/- I.d. to suffer S.I. for one months. He is also convicted for offence punishable under section 11 read with section

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12 of the POCSO Act, 2012 and sentenced to suffer R.I. for one year and to pay fine of Rs. 500/- I.d. to suffer S.I. for one month. He is also convicted for offence punishable under section 323 of the IPC, but no sentence is imposed. Both the substantive sentences to run concurrently.

3 The learned Counsel for the applicant submits that the applicant was on bail during the pendency of the trial and has not committed breach of any condition imposed upon him and therefore, deserves extension of the same relief during the pendency of the appeal. The sentence imposed upon the applicant is a short term sentence. Hence, the same needs to be suspended during the pendency of the appeal.

4 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 would be entitled to be enlarged on bail as this Court is hearing appeal of the year 2012 and 2014, where the accused are in jail. In view of this, the application deserves to be allowed.

5 Hence following order is passed :

ORDER

(i) The application is allowed

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(ii) The substantive sentence imposed upon the applicant vide Judgment and Order dated 29/10/2018 passed by Special Judge(under POCSO Act), Pune in Special (C) Sessions Case No. 362 of 2014 is suspended. He be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or more solvent sureties in the like amount.

(iii) The applicant shall mark his presence before the Special Court(under POCSO Act), Pune once in 6 months on the date specified by the Special Court(under POCSO Act), Pune. Upon failure to attend on two consecutive dates, the Special Court(under POCSO Act), Pune to report the same to the High Court and the prosecution is also at liberty to file application for cancellation of bail.

6 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]