

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.45 OF 2019

IN

CRIMINAL APPEAL NO.37 OF 2019

Vishal Chandrakant Naikwadi ... **Applicant**

V/s.

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

.....

Mr.Manoj B. Bagal, Advocate for the Applicant.

Mr.P.H.Gaikwad-Patil, APP for the Respondent/State.

....

CORAM : A.M.BADAR J.

DATED : 24st JANUARY 2019.

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused No.2 on bail during pendency of the appeal filed by him.

2 The applicant/accused No.2 along with co-accused is convicted for the offence punishable under Section 363 read with Section 34 of the Indian Penal Code as well as under Section 7 read with Section 8 and under Section 11 read with Section 12 of

the Protection of Children from Sexual Offences Act, 2012. Different sentences are imposed on him on different counts. The highest being the rigorous imprisonment for four years for the offence punishable under Section 363 read with Section 34 of the Indian Penal Code.

3 Heard the learned Advocate appearing for the applicant/accused No.2. He argued that evidence of the alleged victims indicates that they voluntarily joined the company of the applicant and the co-accused and roamed with them at several places. There is no sufficient evidence to infer that the victims were children at the time of the alleged offence. Short sentence of imprisonment is imposed on the applicant.

4 The learned Additional Public Prosecutor opposed the application.

5 I have carefully considered the submissions so advanced.

6 The applicant/accused No.2 was on bail during pendency of the trial. Short sentence of imprisonment is imposed on him and the appeal filed by him may not be heard within a short period. Therefore, the Order :

ORDER

- (i) The application is allowed.

(ii) The substantive sentence of imprisonment imposed on the applicant/accused No.2 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) The application is disposed of accordingly.

(A.M.BADAR J.)