

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 661 OF 2019
IN
CRIMINAL APPEAL NO. 629 OF 2019

Shankar Ashok Desai

..Appellant/Applicant

v/s.

The state of Maharashtra and Anr.

..Respondents

Mr. Kuldeep U. Nikam for Appellant/Applicant.
Ms. Pallavi Dabholkar-APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 30th April 2019.

P.C.

1. Heard.
2. This is an application filed under Section 389 of Cr.P.C. The applicant herein is seeking suspension of substantive sentence imposed upon him by the District Judge-3 and Additional Sessions Judge, Islampur in Special (POCSO) Case No. 18 of 2018, vide judgment and order dated 26th March 2019, thereby convicting the applicant for the offence punishable under section 8 of the Protection of Children from Sexual Offences Act, 2012 vide Section 235 (2) of Cr.P.C and sentencing to suffer rigorous imprisonment for three years and to pay fine of Rs. 500/- (Rs. Five hundred only), in default shall suffer simple imprisonment for 15 days. He also

convicting for the offence punishable under section 452 of the Indian Penal Code vide section 235 (2) of Cr.P.C. and sentencing to suffer rigorous imprisonment for two years and to pay fine of Rs. 500/- (Five hundred only), in default shall suffer simple imprisonment for 15 days.

3. The sentence imposed upon him is short term sentence. The applicant was on bail during the pendency of the trial and has not committed breach of any conditions imposed upon him. After conviction substantive sentence is suspended since the sentence imposed upon him is three years.

4. In view of this, the applicant is entitled to the extension of same relief during the pendency of the appeal. Hence the following order:-

Order

- i) The Criminal Application is allowed.
- ii) The substantive sentence imposed upon the applicant by the District Judge-3 and Additional Sessions Judge, Islampur in Special (POCSO) Case No. 18 of 2018, vide judgment and order dated 26th March 2019 is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.25,000/- (Rupees Twenty-Five Thousand only) and one or more sureties in the like amount.
- iv) The applicant shall cause his presence before

the District Judge-3 and Additional Sessions Judge, Islampur once in six months on the date assigned by the District Judge-3 and Additional Sessions Judge, Islampur

v) Upon failure to attend any two consecutive dates, the District Judge-3 and Additional Sessions Judge, Islampur shall make report to the High Court and the prosecution would be at liberty to seek cancellation of bail.

vi) The application stands disposed of.

The parties to act on an authenticated copy of this order.

(SMT. SADHANA S. JADHAV, J)