

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

CRIMINAL APPLICATION NO. 1312 OF 2019

IN

CRIMINAL APPEAL NO. 824 OF 2018

Suresh Maruti Teke

...Applicant

Versus

The State of Maharashtra

...Respondent

Sayavrat Joshi – Advocate for the applicant.

Ms. P. N. Dabholkar – APP for the Respondent – State.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 21st AUGUST 2019.

P.C. :

Charged with the offence under Sections 376(2) (f) and 323 of IPC, besides Section 6 of the Protection of Children from Sexual Offences Act (“POCSO Act”), the applicant suffered conviction. On 1st July 2017, the learned Special Judge and Additional Sessions Judge, Sangli, in Special Case No. 55/2013, sentenced the applicant, among other things, to 12 years' rigorous imprisonment.

2. Heard the learned Counsel for the applicant and the learned APP, besides perusing the record.

3. Seen from the record, the applicant was arrested on

01.12.2012, on the very day the crime was registered. He continued in judicial custody during the trial. From 1st July 2017, when the judgment was pronounced, the applicant has continued to serve the sentence. By now, he has completed 6 years and 8 months, excluding the remission period.

4. Indeed, the learned counsel for the applicant has brought to my notice that earlier this Court, *per* from Hon'ble Justice Badar, dismissed the first application under Section 389 of Cr PC. But given the case holding of *Hussain v. Union of India*¹, this case may deserve a second look.

I reckon it is difficult for this Court to take up the appeal immediately. As a result, it is a fit case for the Court to suspend the sentence and enlarge the applicant on bail. I do so subject to these conditions:

ORDER

- (i) The application is allowed.
- (ii) Substantive sentence imposed on the applicant is suspended, and he is directed to be released on bail on his executing P.R. Bond for Rs.30,000/- and on his furnishing two sureties, each for the like amount.
- (iii) The appellant should not contact the first informant or victim, or any other witness, or any other member of the victim's family in any manner, pending this appeal.
- (iv) The applicant must pay fine amount, if any, before

¹ (2017) 5 SCC 702

his release. The payment of fine is without prejudice to the applicant's contentions in the appeal.

- (v) The applicant's failure to abide by these conditions will entail the prosecution to apply for cancellation of bail now granted to the applicant.

[DAMA SESHADRI NAIDU, J.]