

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.17 OF 2019

IN

CRIMINAL APPEAL NO.11 OF 2019

Mr. Bapu Shamrao Gunjal
V/s.

...Applicant

The State of Maharashtra

...Respondent

Mr. Adwait Bhode, Advocate for the Applicant.

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

CORAM : A.M.BADAR, J.

DATED : 15th JANUARY 2019

P.C. :

1. This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him.

2. The applicant/accused is convicted for the offence punishable under Sections 354-A and 509 of the Indian Penal Code and under Section 7 read with Section 8 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as 'POCSO Act' for the sake of brevity). For the offence punishable under Section 354-A of the Indian Penal Code, he is sentenced to

suffer rigorous imprisonment for three years apart from imposition of fine of Rs.500/- and default sentence of simple imprisonment for one month. For the offence punishable under Section 509 of the Indian Penal Code, he is sentenced to suffer rigorous imprisonment for three months apart from imposition of fine of Rs.500/- and default sentence of simple imprisonment for two weeks. For the offence punishable under Section 7 read with Section 8 of the POCSO Act, he is sentenced to suffer rigorous imprisonment for three years apart from imposition of fine of Rs.1000/- and default sentence of simple imprisonment for one month.

3. Heard the learned Counsel appearing for the applicant/accused. He argued that substantive sentence of imprisonment imposed on the applicant/accused has already been suspended by the learned trial Court in exercise of powers under Section 389 of the Code of Criminal Procedure. The learned APP is not disputing this fact.

4. Short sentence of imprisonment for three years is imposed on the applicant/accused for the offence punishable under Section

354-A of the Indian Penal Code as well as under Section 7 read with Section 8 of the POCSO Act. Substantive sentences are directed to run concurrently by the learned trial Court. The applicant is already released on bail by the learned trial Court. As the appeal filed by him may not be heard within a short period of three years, the applicant/accused deserves to be released on bail. Hence, the order.

- : ORDER : -

- (i) The application is allowed.
- (ii) The substantive sentence of imprisonment imposed on the applicant/accused 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) As a condition of this order, the applicant/accused should not contact the victim girl or her relatives in any manner and he should not repeat commission of similar offence.
- (iv) The application is disposed of accordingly.

(A.M.BADAR J.)