

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.101 OF 2019

IN

CRIMINAL APPEAL NO.95 OF 2019

Sunil Ashok Mali ... **Applicant**

V/s.

The State of Maharashtra ... Respondent

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Mr. Shivshankar D. Patil, Advocate for the Applicant .

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

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CORAM : A.M.BADAR J.

DATED : 31st 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. The applicant/accused is convicted for the offence punishable under Section 8 of the Protection of Children from Sexual Offences Act, 2012 (hereinafter referred to as the 'POCSO Act' for the sake of brevity) and is sentenced to suffer rigorous imprisonment for three years apart from direction to pay fine of Rs.10,000/- and in default to further undergo simple imprisonment for thirty days. Though not appearing in the operative portion of the Order, it appears that the

applicant/accused was also convicted of the offence punishable under Section 354(A) of the Indian Penal Code, but in view of mandate under Section 42 of the POCSO Act, no separate sentence was imposed on the applicant/accused on that count.

2 Heard the learned Counsel appearing for the applicant/accused. He argued that the applicant/accused was on bail throughout and even after his conviction, the substantive sentence of imprisonment imposed on the applicant/accused is suspended by the learned trial Court. The learned Additional Public Prosecutor is not disputing this fact.

3 I have considered the submissions so advanced and perused the material placed on record.

4 Short sentence of imprisonment of three years imposed on the applicant/accused has already been suspended by the learned trial Court by passing Order below Exhibits 31 and 32. The applicant was on bail during the trial. His appeal may not be heard within a short period of three years. 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 of crime in question or her relatives in any manner and he should not repeat commission of similar offences in future.

(iv) The application is disposed of accordingly.

(A.M.BADAR J.)