

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 115 OF 2019
IN
CRIMINAL APPEAL NO. 1492 OF 2018

Mohammad Aarif Asik Ali Raain.

..Applicant.

V/s.

The State of Maharashtra & ors.

..Respondents.

Mr. M. Imran Farooqui, advocate for applicant.

Ms. Pallavi N. Dabholkar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : FEBRUARY 15, 2019.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2 This is an application under section 389 of the Code of Criminal Procedure, 1908. The applicant herein is convicted by Special Judge under P.O.C.S. Act, Gr. Bombay in Special Case No. 1 of 2014 for offence punishable under section 8 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer R.I. for 5 years and to pay fine of Rs. 2,000/- I.d. to suffer S.I. for 2 months. The applicant is also convicted for offence punishable under section 341 of the Indian Penal Code, 1860 and sentenced to pay fine of rs. 500/- I.d. to suffer S.I.

Talwalkar

15 days. He is also convicted for offence punishable under section 354(A) of the Indian Penal Code, 1860 but since he is already sentenced for the offence punishable under section 8 of the POCSO Act, 2012, he is not again sentenced for this offence.

3 It is the case of the prosecution that the applicant herein was working at the site of the construction of rickshaw garage. The victim was playing nearby. That he had taken the victim to the garage and had sexually abused her. She was scared and started crying and therefore, she was released from the clutches of the applicant.

4 Upon perusal of the evidence of the victim, coupled with her statement recorded under section 164 of the Code of Criminal Procedure, 1973, this Court is of the opinion that no case for bail is made out.

5 Learned Counsel for the applicant submits that the applicant was on bail during the pendency of the trial and therefore, he be granted the same relief during the pendency of the trial.

6 Upon perusal of the evidence on record, this Court is of the opinion that the matter can be finally heard and it would not be necessary to grant bail after he has convicted. Hence, the application for

bail is rejected. However, the record and proceedings and the paper book of the said case is expedited. The same be called within 3 months from today. Liberty to mention the matter upon receipt of paper book.

7 The application stands disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]