

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 267 OF 2019
IN
CRIMINAL APPEAL NO. 287 OF 2019

Rajendra Dattoba Kondhare
v/s.

..Applicant

The State of Maharashtra

..Respondent

Mr. Ajinkya Badar for the Applicant.
Ms. Pallavi Dabholkar, APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 13th MARCH 2019.

P.C.

1. This is an application filed under Section 389 of Cr.P.C. the applicant herein is seeking suspension of substantive sentence imposed upon the applicant by Additional Sessions Judge, Pune, in Special (POCSO) S.C. No. 213 of 2015, vide judgment and order dated 21st January 2019, thereby convicting the applicant for the offences punishable under Sections 354-A of the Indian Penal Code and under Section 7 read with 8 of Protection of Children from Sexual Offences Act, 2012 and sentencing to suffer R.I. for three years and to pay fine of Rs. 2000/- in default, to suffer S.I. for one month.

2. Perused the evidence of the victim. It, prime facie, appears that the statement of the victim was not recorded under Section 164 of Cr.P.C.

3. Learned counsel for the applicant submits that the applicant was on bail during the pendency of the trial and he has not committed breach of any conditions imposed upon him. The sentence imposed upon him is short term sentence and the appeal may not be heard in the near future. In view of the judgment of the Apex Court in the case of *Kiran Kumar v/s State of MP reported in 2001 A.I.R. SCW, 5130* the applicant deserves to be enlarged on bail as he would be 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 vide judgment and order dated 21/01/2019 is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 20,000/- and one or more solvent sureties in the like amount.
- iv) The applicant shall cause his presence before the Additional Sessions Judge, Pune, once in six months on the date assigned by the learned Sessions Judge.

- v) Upon failure to attend any two consecutive dates, the learned Sessions Court 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.

Parties to act on an authenticated copy of this order.

(SMT. SADHANA S. JADHAV, J)