

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

**CRIMINAL APPLICATION NO.327 OF 2019
IN
CRIMINAL APPLICATION NO.328 OF 2019
IN
CRIMINAL APPEAL NO. 353 OF 2019**

Pradeep Virendra Singh Applicant

Vs.

The State of Maharashtra & Anr. Respondents

Mr. Arun Rajput I/by Ms. Anjali Patil for the Applicant.

Mr. S.H. Yadav, APP for State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 11th March 2019

P.C.:

1 Heard the respective counsel.

2 These are the applications under Section 389 Code of Criminal Procedure. The applicant herein is convicted by the Special Judge (POCSO) Act, Greater Mumbai in POCSO Special Case No. 129 of 2015, for the offences punishable under Sections 506 of Indian Penal Code and under Section 8 of Protection of Children

from Sexual Offences Act, 2012 and sentenced to suffer rigorous imprisonment for two years and to pay fine of Rs.2,000/-, in default to suffer further rigorous imprisonment for two months and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.3,000/-, in default to suffer further rigorous imprisonment for three months respectively.

3 Learned counsel for the applicant submits that the applicant was on bail during the pendency of the trial and has not committed breach of any conditions imposed upon him. It is also submitted that the applicant has been sentenced to a short term sentence and that there is no possibility of the appeal being finally heard in the near future. Learned counsel has drawn the attention of this Court to the cross-examination of the victim wherein the victim has admitted candidly as follows :

“It is true to say that sir used to admire students who get good marks. It is true to say that sir used to move his hand on head and back in such admiration. It is true to say that some children were not liking sir moving his hand on their hand or back.”

4 In view of above, taking into consideration that the sentence imposed upon the applicant is a short term sentence, it would be a fit case for suspension of the substantive sentence. Hence, the following order.

ORDER

- i) The applications are allowed.
- ii) The substantive sentence imposed upon the applicant vide judgment and order dated 22nd February 2019 is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.
- iv) The applicant shall mark his presence before the Special Court (POCSO), Greater Mumbai, once in six months on the date assigned by the Special Judge.
- v) Upon failure to attend any two consecutive dates, the Special Court shall report the same to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.
- vi) The applications are allowed in above terms and stands disposed of.

(*Smt. Sadhana S. Jadhav, J*)