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

CRIMINAL APPLICATION No. 383 OF 2019
IN
CRIMINAL APPEAL No. 416 OF 2019

Mohd. Najir Nasir Khan and Ors. ...Applicants

Vs.

The State of Maharashtra and Anr. ...Respondents

Mr. Shaikh M. Imran a/w. Ms. Ruby Shaikh, for Applicants

Mr. Y.M. Nakhwa, APP for the State

CORAM : SMT.SADHANA S. JADHAV, J.

DATE : MARCH 20, 2019

P.C.:

1. This is an application under Section 389 of the Criminal Procedure Code, seeking suspension of substantive sentence. The Applicants herein are convicted for the offences punishable under Section 354 (D) r/w. 34 of the Indian Penal Code and sentenced to suffer R.I. for one year and to pay fine of Rs.10,000/-each, in default, to suffer R.I. for six months. The Applicants are also convicted for the offence punishable under Section 12 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer R.I. for 1 year and to pay fine of Rs.10,000/-each, in default, to suffer R.I. for six months by the Special Judge (POCSO), Greater Mumbai dated 12.02.2019. It is submitted that

the fine amount is paid.

2. The learned counsel for the Applicants submits that the Applicants were on bail during the pendency of the trial and have not committed any breach of conditions imposed upon them. The sentence imposed upon the applicants is a short term sentence and the Applicants are entitled to extension of the same relief during the pendency of the appeal, upon imposing certain stringent conditions.

3. Hence, the following order.

ORDER

(i) The Application is allowed.

(ii) The substantive sentence imposed upon the Applicants vide judgment and order dated 12.2.2019 passed by the Special Judge (POCSO), Greater Mumbai is hereby suspended. They be enlarged on bail on furnishing P.R. Bonds in the sum of Rs.20,000/- each and one or more sureties in the like amount.

(iii) The Applicants shall not reside within the jurisdiction of Kurla Police Station for a period of three months, commencing from 1st of April, 2019.

(iv) The Applicants shall report to the Learned Special Judge, Greater Mumbai once in six months on the date assigned by the

Learned Special Judge. Upon failure to attend any two consecutive dates, the Learned Special Judge (POCSO), Greater Mumbai shall make report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

Criminal Application stands disposed of in the aforesaid terms.

[SMT.SADHANA S. JADHAV, J.]

V.A. Tikam