

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

**CRIMINAL APPLICATION NO. 490 OF 2019
IN
CRIMINAL APPEAL NO. 546 OF 2019**

1 Aatish Krishnat Salunkhe.

2 Sau. Reshma Aatish Salunkhe. ..Applicants.

V/s.

The State of Maharashtra & ors. ..Respondents.

Ms. Gayatri Gokhale I/b. Mr. Swapnil Wagh, advocate for applicants.

Mr. S.R. Agarkar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : APRIL 15, 2019.

P. C. :

1 Heard the learned Counsel for the applicants and the learned APP for State. Leave to add/amend to add the victim as party. The amendment to be carried out forthwith.

2 This is an application under section 389 of the Code of Criminal Procedure, 1973 seeking suspension of substantive sentence imposed upon the applicants by the Special Judge, Pune(Under the Protection of Children from Sexual Offences Act.) dated 29/11/2018 in Special Sessions Case No. 82 of 2013. The applicants have been convicted for the offence punishable under section 342 read with 34 of

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the Indian Penal Code and sentenced to suffer R.I. for one year and to pay fine of Rs. 2,000/- each I.d. to suffer S.I. for one month. The applicants are also convicted for the offence punishable under section 109 read with section 376 of the Indian Penal Code and sentenced to suffer R.I. for 7 years and to pay fine of Rs. 5,000/- each I.d. to suffer S.I. for 6 months.

3 It is a matter of record that by the Judgment and Order dated 29/6/2018, principal accused Chhotu @ Prakash Kacharu Pawar has been acquitted. It had transpired in the course of investigation that the principal accused Chhotu @ Prakash Pawar was juvenile in conflict with law at the time of incident. That he was tried by Juvenile Justice Board in Summary Case No. 493 of 2013. He was acquitted by Juvenile Justice Board mainly on the ground that in the course of recording evidence of the victim, she has specifically stated that she had initiated criminal prosecution against the principal accused and his friends under coercion from her family members and that on the date when her deposition was recorded, she had got married to the juvenile in conflict with law.

4 The present applicants are alleged to have been abettors and hence, they would be entitled to be enlarged on bail during the pendency of appeal. The applicants herein have been convicted with the

aid of section 109 of the Indian Penal Code.

5 In view of the above, the applicants deserve to be enlarged on bail during the pendency of the appeal. Hence, following order is passed :

ORDER

(i) The application is allowed.

(ii) The substantive sentence imposed upon the applicants is hereby suspended and the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- each and one or more solvent sureties in the like amount.

(iii) The applicants shall report to the concerned Special Court, Pune once in six months on the date assigned by the concerned court. Upon failure to attend any two consecutive dates, the Special Court shall informed the same to the High Court and the prosecution is at liberty to move for cancellation of bail.

6 The application is disposed of accordingly.

Parties to act on the authenticated copy of this order.

[SMT. SADHANA S. JADHAV, J.]

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