

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

CRIMINAL APPLICATION NO. 551 OF 2018

IN

CRIMINAL APPEAL NO. 395 OF 2018

Swapnil Kishor Junnare

...Applicants

Versus

The State of Maharashtra

...Respondent

Aniket Nikam – Advocate for the applicant.

Amol A. Shinde – Advocate for the Respondent – 2.

A. S. Patil – APP for the Respondent – State.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 8th JULY, 2019.

P.C. :

The appellant has been convicted for the offences under Sections 376 (2) (i) (j) (k), 506 and 511 of IPC, and Section 4 and 8 of the Protection of Children from Sexual Offences Act (POCSO Act) 2012, in Sessions Case No. 357 of 2015, by the Additional Sessions Judge, Nashik.

2. The Trial Court has sentenced the applicant, among other things, to seven years' rigorous imprisonment.

3. The allegations reveal that the appellant is a driver of school bus that as he was transporting the school children, he took the 5 years old victim girl to a nearby park and meddled with her private parts by inserting his finger. When the child protested, he let go of with a warning that she should not reveal it to anybody, less she should to face danger.

4. Heard, the learned counsel for the respondent and the learned counsel for the applicant.

5. Indeed, the allegations are grave, and the child was only 5 years old.

6. Of 7 years sentence, the appellant has already served close to 2 years. During the course of trial, he was in custody from 21.09.2015 to the August, 2016. Later after the judgment rendered on 19.03.2018, the appellant was sent to serve the sentence. Balancing the gravity of the offence and the clamour for liberty pending appeal, I suspend the sentence and enlarge the appellant on bail subject to following conditions :

ORDER

(i) Application is allowed.

(ii) Substantive sentence imposed on the applicant is suspended, and he is directed to be released on bail on his executing P.R.

Bond for Rs. 30,000/- and on his furnishing two sureties for the like amount.

(iii) Until further orders from the Court, the applicant should live beyond the territorial limits of Nashik district; in any emergency, if the applicant desires to enter the city limits, he should seek this Court's permission.

(iv) Pending the appeal, the applicants should not contact the first informant, or any other witness or victim or any member of the victim's family, in any manner.

(v) The applicant's failure to abide by these conditions will entail the prosecution to apply for cancellation of bail now granted to the applicants.

(vi) Application is accordingly disposed of.

[DAMA SESHADRI NAIDU, J.]