

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.538 OF 2019
IN
CRIMINAL APPEAL NO. 540 OF 2019

Akhtaribegam Allauddin MansuriApplicant

Vs.

1. The State of Maharashtra

2. Julekha Rasul MansuriRespondents

Mr. Arun K. Rajput for applicant.

Mr. S.R. Agarkar for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : APRIL 24, 2019.

P. C. :

1 Heard the learned Counsel for the applicant and the learned APP for State.

2. This is an application u/s. 389 of Cr.P.C. The applicant herein is seeking suspension of substantive sentence imposed upon him in Protection of Children from Sexual Offences Act in Special Case No. 10/2014 by the Additional Sessions Judge, Thane vide judgment and order dated 08.03.2019 thereby convicting the appellant for the offence punishable u/s. 347 and 348 of Indian Penal Code and u/s. 4 r/w. Section

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17 of Protection of Children from Sexual Offences Act, 2012.

3. The applicant herein happens to be a woman. She could have been convicted only with the aid of Section 16 of the Protection of Children from Sexual Offences Act, 2012. However, it prima facie appears that no charge was framed u/s. 16 of the Protection of Children from Sexual Offences Act, 2012. The applicant was on bail during pendency of trial and would be entitled to the extension of same relief during the pendency of the appeal. It is made clear that the application filed by the co-accused Allauddin Mansuri shall be considered on its own merits. Prima facie, the applicant herein is being enlarged on bail for want of framing of charge u/s. 16 of Protection of Children from Sexual Offences Act, 2012. Hence, following order is passed :

ORDER

(i). The application is allowed.

(ii). The substantive sentence imposed upon the applicant vide Judgment and Order dated 08.03.2019 by the Additional Sessions Judge, Thane in POCSO Special Case No. 10/2014 is hereby suspended. He be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or more solvent sureties in the like amount.

(iii). The applicant be enlarged on provisional cash bail of Rs.25,000/- for a period of 6 weeks from today.

(iv) Upon being released on bail, the applicant shall report to the Court of Special Judge, Thane once in six months on the date assigned by the Learned Sessions Judge.

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(v). Upon failure to attend any two consecutive dates, the Learned Special Judge, Thane shall make a report to the High Court and prosecution will be at liberty to seek cancellation of bail.

[SMT. SADHANA S. JADHAV, J.]