

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

**CRIMINAL APPLICATION NO.564 OF 2019
IN
CRIMINAL APPEAL NO.638 OF 2019**

Samir Gopal Bobade

Age : 27 years, Occ.: Catering,
R/o : Room No. 703, 7th Floor,
Vaibhav CHS, Ambadevi Bldg.,
90 feet Road, Dharavi,
Mumbai - 400 017

.... Applicant

Vs.

The State of Maharashtra

Thru' Sion Police Station, Mumbai.

.... Respondent

Mr. Ratnesh Dube, appointed Advocate for the Applicant.

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

Mr. Thorat, PSI, Sion Police Station, Mumbai

Coram : Smt. Sadhana S. Jadhav, J.

Date : 13th August 2019

P.C.:

1. Heard the respective counsel.
2. This is an application under Section 389 Code of Criminal Procedure seeking suspension of substantive sentence. The applicant herein is convicted by the Special Court (POCSO) Act, Greater Mumbai, in Special Case No. 436 of 2017, for the

offences punishable under Sections 354-A of Indian Penal Code and under Section 8 of Protection of Children from Sexual Offences (POCSO) Act, 2012 sentencing him to suffer rigorous imprisonment for three years under Section 8 of POCSO Act and for two years under Section 354-A of Indian Penal Code vide judgment and order dated 31st December, 2018.

3. Learned counsel for the applicant submits that the applicant has been in custody since 25th May 2017 and has undergone more than two years in prison. Learned counsel for the applicant, upon instructions, submits that the fine amount imposed upon the applicant is paid in the Sessions Court on 20th April 2019. The appeal is of the year 2019 and therefore no priority can be given. Hence, the applicant deserves to be enlarged on bail during pendency of the appeal. Hence, the following order.

ORDER

- i) The application is allowed and stands disposed of.
- ii) The substantive sentence imposed upon the applicant vide judgment and order dated 31st December, 2018 is hereby suspended.

- iii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.15,000/- with one or more *sureties* in the like amount.
- iv) Upon being enlarged on bail, the applicant shall report to the Special Court, 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 make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.
- vi) The applicant be enlarged on *Cash Bail* of Rs.15,000/- with a condition that he shall furnish sureties in the like amount within eight weeks from today.
- vii) Parties to act on authenticated copy of this order.
- viii) Learned counsel, Mr. Ratnesh Dube is appointed by the High Legal Aid Department of High Court Legal Aid Services and he would be entitled to the professional fees, as per rules, to be paid by High Court Legal Aid Services, Mumbai.

(Smt. Sadhana S. Jadhav, J)