

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

**CRIMINAL APPLICATION NO.565 OF 2019
IN
CRIMINAL APPEAL NO.559 OF 2019**

Samadhan alias Govind Hamunant Applicant
Kedari

Vs.

The State of Maharashtra & Anr. Respondents

Mr. A.R. Mundargi Senior Counsel a/w Mr. Veerdhaval Kakade I/by
Mr. Prabhakar M. Jadhav for the applicant.

Mr. S.S. Pednekar, APP for State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 24th April 2019

P.C.:

1 Heard the respective counsel.

2 This is an application filed under Section 389 Code of Criminal Procedure seeking suspension of substantive sentence imposed upon the applicant. The applicant herein is convicted by the Special Judge, Pune (Under POCSO Act) in Special (C) Sessions Case No.154 of 2014 vide judgment and order dated 26th February 2019.

The applicant is convicted for the offence under Section 3 punishable under Section 4 of the Protection of Children from Sexual Offences Act and sentenced to suffer rigorous imprisonment for seven years and fine of Rs.2,000/- in default to suffer simple imprisonment for one year. The applicant is further convicted for the offence punishable under Section 3(1)(xi)(xii) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act and sentenced to suffer rigorous imprisonment for three years, fine of Rs.1,000/-, in default to suffer simple imprisonment for three months. Both the sentences shall run concurrently.

3 Perused the evidence, more particularly of the victim. It is true that the victim was a minor at the time of incident. However, according to her, she happens to be the childhood friend of the present applicant, who had hardly completed 18 years of age at the time of incident. There is common boundary on their agricultural lands. It is the case of the prosecution that on 26th March 2014, the applicant had been to the house of the victim. The parents of the victim were not at home. When the victim and the applicant were in

each others company, suddenly the father of victim returned home. He found them at home. He had confined the applicant in his house and had slapped him. The accused had merely passed 12th standard examination at the time of incident. It is further the case of the victim that the applicant used to go to his agricultural land for watering his crops and at that time the victim and the applicant were meeting each other. The parents of the victim had not liked their companionship. They had objected to the same. They had also scolded their daughter and there were quarrels between both the families. Despite the fact that the victim was scolded by her father, she continued her friendship with the present applicant. She has candidly stated before the court that in order to teach the lesson to the applicant/accused, her father decided to lodge the report against him. Moreover, it is the case of the victim that her report was not read over to her by Police. She had not read her complaint even on the day when she had stepped into the witness box. She has admitted that the incident as mentioned in the complaint at Exhibit '5' had not happened with her. In view of the above observations,

the applicant deserves bail during the pendency of the appeal.
Hence, the following order.

ORDER

- i) The application is allowed and disposed of.
- ii) The substantive sentence imposed upon the applicant vide judgment and order dated 26th February 2019 is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.40,000/- with one or more solvent sureties in the like amount.
- iv) The applicant herein shall not reside in Shirur Taluka for a period of six months.
- v) Upon being enlarged on bail, the applicant shall mark his presence before the Sessions Court, Pune once in six months on the date assigned by the Sessions Judge.
- vi) Upon failure to attend any two consecutive dates, the Sessions Court, Pune shall make a report to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

(*Smt. Sadhana S. Jadhav, J*)