

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 653 OF 2019
IN
CRIMINAL APPEAL NO. 626 of 2019

Tanvir Munir Shaikh.

..Applicant.

V/s.

The State of Maharashtra & anr.

..Respondents.

Ms. Anjali Awasthi, advocate for applicant.

Ms. Pallavi N. Dabholkar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : APRIL 25, 2019.

P. C. :

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

2 This is an application under section 389 of the Code of Criminal Procedure, 1973 seeking suspension of sentence imposed upon the applicant. The applicant herein is convicted for the offence punishable under section 8 of the Protection of Children from Sexual Offences Act, 2012 which is lesser offence than punishable under section 4 of POCSO Act charged against him and is sentenced to suffer R.I. for 3 years and to pay fine of Rs. 1,00,000/- I.d to suffer S.I. for 6 months. The applicant is also convicted for offence punishable under

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section 417 of the Indian Penal Code and sentenced to suffer R.I. for one year and to pay fine of Rs. 10,000/- I.d. to suffer S.I. for one month by the Special Judge under POCSO Act vide Judgment and Order dated 10/4/2019 in POCSO Special Case No. 296 of 2014.

3 The sentence imposed upon the applicant is a short term sentence. The learned Special Court has sentenced the applicant to pay fine of Rs. 1,10,000/-. The learned Special Court has granted compensation of Rs. 1,00,000/- to the victim out of the fine amount as contemplated under section 357(1) of the Code of Criminal Procedure, 1973. Needless to say that the fine would be deposited in the court and would be subject to the decision of the appeal finally. Learned Special Judge had permitted the accused to deposit Rs. 30,000/- towards fine and had further directed the applicant to deposit remaining amount of fine within 2 weeks.

4 The learned Counsel for the applicant submits that the applicant would deposit the fine amount within 4 weeks from today I.d. on or before 31st May, 2019. The bail is granted subject to deposit of the rest of the fine amount i.e. Rs. 70,000/- by 31st May, 2019.

5 In view of the above, following order is passed :

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ORDER

- (i) The application is allowed.
- (ii) The substantive sentence imposed upon the applicant vide Judgment and Order dated 10/4/2019 by Special Judge under POCSO Act, Gr. Bombay in POCSO Special Case No. 296 of 2014 is hereby suspended. The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 15,000/- with one or more solvent sureties in the like amount i.e. same bail fresh bond.
- (iii) The applicant shall report the Court of Special Judge under POCSO Act Gr. Bombay once in 6 months on the date assigned by the Special Court. Gr. Bombay. Upon failure to attend any two consecutive dates, the Special Court, Gr. Bombay shall make report to the High Court and the prosecution will be at liberty to move for cancellation of bail.
- (iv) It is made clear that suspension of substantive sentence is subject to deposit of fine by 31st May, 2019.
- 6 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]