

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.666 OF 2019
IN
CRIMINAL APPEAL NO. 631 OF 2019

Yadnesh Waman Mhatre ... Applicant

V/s.

The State of Maharashtra and Anr. ... Respondents

Ms. Juanita Menezes i/by Mr. Kuldeep S. Patil for Applicant.

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

CORAM : SMT. SADHANA S. JADHAV, J

DATED : 14TH AUGUST, 2019.

P.C. :

1. Heard.
2. This is an application filed under Section 389 of Cr.P.C. The applicant herein is seeking suspension of substantive sentence imposed upon the applicant by the Special Judge, Raigad-Alibag in Special (POCSO) Case No. 27 of 2013, vide judgment and order dated 16th April 2019, thereby convicting the applicant for the offences punishable under Sections 9(m), 10, 11 and 12 of the Protection of Children from Sexual Offences Act and sentenced to suffer R.I. for five years and to pay a fine of Rs. 5000/-, in default, he shall suffer further S.I. for one month. No separate sentence is passed.
3. Perused the evidence of the victim. The victim has alleged that the applicant had lifted her and had taken her in the lane which

was isolated, at about 8.00 p.m., on the day of incident. He had touched her inappropriately. She had started crying therefore, her neighbours and her parents had rushed to the spot and soon thereafter, the F.I.R. was lodged. The allegation is of touching her private parts with sexual intention.

4. In view of the fact that the sentence imposed upon him is short term sentence. The applicant was on bail during the pendency of the trial and has not committed breach of any conditions imposed upon him. Therefore, the applicant is entitled to the extension of the same relief during the pendency of the appeal. However, since he resides in the neighbourhood of the victim who is growing up, stringent conditions need to be imposed upon the applicant. Hence, the following order:-

ORDER

- i) The Criminal Application is allowed.
- ii) The substantive sentence imposed upon the applicant vide judgment and order dated 16th April 2019 by the learned Special Judge, Raigad-Alibag is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. bonds in the sum of Rs.40,000/- (Rupees Forty Thousand Only) and one or more sureties in the like amount.
- iv) The applicant shall not reside at Uran Koliwada, Tal-Uran, District-Raigad for a period of one year from the date of his release.

v) The applicant shall cause his presence before the learned Special Judge, Raigad-Alibag once in six months on the date assigned by the learned Special Judge, Raigad-Alibag.

vi) Upon failure to attend any two consecutive dates, the the learned Special Judge, Raigad-Alibag shall make report to the High Court and the prosecution would be at liberty to seek cancellation of bail.

vii) The application stands disposed of.

5. Parties to act on an authenticated copy of this order.

(SMT. SADHANA S. JADHAV, J)