

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

**CRIMINAL APPLICATION NO. 671 OF 2019
IN
CRIMINAL APPEAL NO. 639 OF 2019**

Salman Faruq Shaikh

..Appellant/Applicant

v/s.

The state of Maharashtra and Anr.

..Respondents

Mr. Murtaza Najmi I/by Mr. Dilip H. Shukla for Appellant/Applicant.
Ms. Pallavi N. Dabholkar-APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 30th April 2019.

P.C.

1. This is an application filed under Section 389 of Cr.P.C. The applicant herein is seeking suspension of substantive sentence imposed upon him by the Additional Sessions Judge, Sessions Court, Greater Mumbai in Special (POCSO) Case No. 144 of 2014, vide judgment and order dated 4th March 2019, thereby convicting the applicant for the offence punishable under sections 509 and 342 of Indian Penal Code and sentencing to suffer simple imprisonment for the period of six months and to pay fine of Rs.500 (Rs. Five Hundred Only), in default of payment of fine, to suffer further simple imprisonment for the period of one month on each count. He also

convicting for the offence punishable under sections 8 and 12 of Protection of Children from Sexual Offence Act, 2012 and sentencing to suffer rigorous imprisonment for the period of three years and to pay fine of Rs.3000/- (Rs. Three Thousand Only), in default of payment of fine, to suffer further simple imprisonment for the period of one month on each count.

2. 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. Perused the evidence of the victim, it appears to be a case of stalking/one sided love. In view of this, the applicant shall not reside within the jurisdiction of Andheri Police Station for a period of six months from today. Hence, the following order:-

Order

- i) The Criminal Application is allowed.
- ii) The substantive sentence imposed upon the applicant by the Additional Sessions Judge, Sessions Court, Greater Mumbai in Special (POCSO) Case No. 144 of 2014, vide judgment and order dated 4th March 2019 is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.25,000/- (Rupees Twenty-Five Thousand only) and one or more sureties in the like amount.

- iv) The applicant shall cause his presence before the Additional Sessions Judge, Sessions Court, Greater Mumbai once in six months on the date assigned by the Additional Sessions Judge, Sessions Court, Greater Mumbai.
- v) Upon failure to attend any two consecutive dates, Additional Sessions Judge, Sessions Court, Greater Mumbai shall make report to the High Court and the prosecution would be at liberty to seek cancellation of bail.
- vi) The applicant shall not reside within the jurisdiction of Andheri Police Station (East-West) for a period of six months.
- vii) The application stands disposed of.

The parties to act on an authenticated copy of this order.

(SMT. SADHANA S. JADHAV, J)