

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

**CRIMINAL APPLICATION NO. 876 OF 2019
IN
CRIMINAL APPEAL NO. 788 OF 2019**

Dinesh Manbir ChandraApplicant/Appellant
V/S
The State Of MaharashtraRespondent

Vinod Kashid for the Applicant.
Ms J. S. Lohakare, APP for the State

**CORAM : DAMA SESHADRI NAIDU, J.
DATED : 19th July, 2019**

P.C.:

The Applicant was charged with an offence under section 376 (1) of Indian Penal Code, besides Sections 4 and 6 of POCSO Act. Upon trial, the applicant was convicted, among other things, to undergo 10 years of rigorous imprisonment.

2. Aggrieved, the applicant has filed the appeal. In this appeal, the applicant has applied for the suspension of sentence and for his consequential enlargement on bail. The records reveal that the victim is his younger sister-in-law. As she had been frequently visiting her sister's house, the applicant took undue advantage of his sister-in-law. And because of that, she became pregnant. On the premise that the victim was a minor when the incident took place, the applicant was charged under Sections 4 and 6 of the

POCSO Act, besides Section 376 (1) of the Indian Penal Code.

2. During the trial, it emerged that the victim was not a minor.
3. But the fact remains that the applicant was arrested on 12th May 2015 and continued to be in judicial custody during the entire course of the trial. The Judgment rendered on 6th May 2019, the Applicant continued to serve the sentence.
4. Heard the learned Counsel for the applicant, and the learned Additional Public Prosecutor, besides perusing the record.
5. I reckon, of the 10 years sentence imposed, the applicant has already served 4 years and 2 months. If we consider the mandatory remission period, the applicant has completed five years—served 50% of the sentence. The victim, too, then was not a minor. The intimacy, it seems, consensual.
6. At any rate, as the Court may not decide the appeal immediately, the Court desires to suspended the sentence and enlarge the applicant on bail. I accordingly do so. The order is subject to these conditions:
 - (i) The application is allowed.
 - (ii) Substantive sentence imposed on the applicant is suspended and he is directed to be released on bail on his executing P.R. Bond for Rs.20,000/- and on his

furnishing two sureties, each for the like amount.

- (iii) The applicant should not contact the first informant or victim, or any witness, or any other member of the victim's family in any manner, pending this appeal.
- (iv) The applicant's failure to abide by these conditions will entail the prosecution to apply for cancellation of bail granted to the applicant.

(DAMA SESHADRI NAIDU, J.)