

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

CRIMINAL APPLICATION NO. 903 OF 2019

IN

CRIMINAL APPEAL NO. 615 OF 2019

Kaju Jalal Shaikh

...Applicant

Versus

The State of Maharashtra & Anr.

...Respondents

Veerdhawal Deshmukh – Advocate for the applicant.

Mrs. J. S. Lohakare – APP for the Respondent – State.

CORAM : DAMA SESHADRI NAIDU, J.

DATE : 30th JULY, 2019.

P.C. :

The applicant was charged with offences under Section 376 (2) of IPC and Section 6 of the Protection of Children from Sexual Offences Act (“POCSO Act”). Eventually, on 14.03.2019, the Special Court Sessions Judge(POCSO), Greater Bombay, in Special POCSO Case No. 611 of 2017, convicted the applicant and sentenced him, among other things, five years’ rigorous imprisonment. Assailing that conviction, the applicant has filed a statutory appeal. In the Appeal, he has filed this Criminal Application for the suspension of sentence and his enlargement on bail.

2. Heard the learned counsel for the applicant and the learned APP, besides perusing the record.

3. As the record reveals, though the applicant was charged with Section 376 (2) of IPC and Section 6 of the POCSO Act, he was eventually convicted and sentenced for the offence under Section 10 of the POCSO Act. Pending the trial, he was arrested on 3.11.2017. He remained in judicial custody throughout the trial. After the judgment, he has been serving the sentence. Of the five years, the applicant has so far completed one year and nine months.

4. First, the applicant has served the substantial part of the sentence, that is one year and nine months; second, it is unlikely that the Court will take up the appeal for final hearing immediately.

I, therefore, suspend the sentence and enlarge the applicant on bail subject to these conditions.

ORDER

(i) The Criminal Application is allowed.

(ii) Substantive sentence imposed on the applicant is suspended and is directed to be released on bail on his executing P.R. Bond for Rs.30,000/- and on his furnishing

two sureties for the like amount by each.

(iii) Pending the appeal, the applicant should not contact the first informant, the victim, or any other witness, or any member of the victim's family in any manner.

(iv) The applicant's failure to abide by these conditions will entail the prosecution to apply for cancellation of bail now granted to the applicant.

[DAMA SESHADRI NAIDU, J.]