

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO. 1013 OF 2019
IN
CRIMINAL APPEAL NO. 804 OF 2019

Shamsher Garibulla Khan. ..Applicant.

v/s.

The State of Maharashtra & Anr. ..Respondents.

Mr. Sheikh Mohd. Imran, advocate for applicant.

Mr. S.R. Agarkar, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J.

DATE : AUGUST 27, 2019.

P. C. :

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

2 The learned Counsel for the applicant has submitted that the applicant has surrendered before the Designated Court under Protection of Children from Sexual Offences Act, 2012, Greater Bombay on 14/8/2019 in compliance with the Order dated 13/8/2019.

3 This is an application under section 389 of the Code of Criminal Procedure, 1973 seeking suspension of the substantive

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sentence imposed upon the applicant by the Designated Court under Protection of Children from Sexual Offences Act, 2012, Greater Bombay in POCSO Spl. Case No. 255 of 2015 vide Judgment and Order dated 5/4/2019. The applicant herein is convicted for the offence punishable under section 354-A of the Indian Penal Code and section 8 of Protection of Children from Sexual Offences Act, 2012 and sentenced him to suffer R.I. for one year and to pay fine of Rs. 10,000/- I.d. to suffer R.I. for two months.

4 The learned Counsel for the applicant submits that the sentence imposed upon the applicant is a short term sentence. The applicant was on bail during the pendency of the trial and has not committed breach of any condition imposed upon him. Hence, he is entitled to extension of same relief during the pendency of appeal.

5 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) Substantive sentence imposed upon the applicant is hereby suspended. He be enlarged on bail on furnishing P.R.

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Bond in the sum of Rs. 15,000/- and one or more solvent sureties in the like amount.

(iii) The applicant shall report to the Designated Court under Protection of Children from Sexual Offences Act, 2012, Greater Bombay once in every 6 months on the date assigned by the Designated Court under Protection of Children from Sexual Offences Act, 2012, Greater Bombay. Upon failure to attend any two consecutive dates, the Designated Court under Protection of Children from Sexual Offences Act, 2012, Greater Bombay shall report the same to the High Court and the prosecution is at liberty to move for cancellation of bail.

6 The application is disposed of accordingly.

[SMT. SADHANA S. JADHAV, J.]