

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

**CRIMINAL APPLICATION NO. 1031 OF 2019
IN
CRIMINAL APPEAL NO. 895 OF 2019**

Sandipkumar Chinta Kashyap @ Raju ...Appellant
Chinta Gaud

Versus

The State of Maharashtra & Anr. ...Respondents

Nikhil Wadikar i/b Nandu V. Pawar - Advocate for the appellant
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 506 of IPC and Section 8 of The Protection of Children from Sexual Offences Act (“POCSO Act”). Upon trial, the Court of Sessions, Borivali Division, Dindoshi, convicted the accused and sentenced him, among other things, to five years’ rigorous imprisonment. Assailing that judgment, the applicant has filed a statutory appeal before this Court. In the Appeal, he has filed this Civil Application for the suspension of the sentence and for his enlargement on bail.

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

3. The allegations concerned that when the victim, 12 years old, was going with her younger sister through a dark alley, someone in the darkness pressed her breast. Scared, she raised the alarm; then, the person fled. A complaint lodged, the police arrested the applicant. As the applicant was arrested on 13.05.2017, he remained in the judicial remand throughout the trial. As the judgment was delivered on 28.02.2019, the applicant has continued to serve the sentence. By now, he has completed 26 months of five 5 years' sentence imposed on him.

4. In the above context, in response to the submission made by the applicant's counsel, the learned APP has strenuously opposed the application. According to her, the victim is a minor and she may face threat to her life.

5. In reply, the applicant's counsel assures the Court that the applicant will abide by the conditions and will cause no harm to the victim or anyone else.

6. Indeed, the crime involves the minor. I have already set out the allegations the applicant has faced. Of five years sentence, he has served substantial part of it, that is 26 months. And this Court is unlikely to take up the Appeal immediately.

As a result, it is a fit case for the Court to suspend the sentence and enlarge the applicant on bail. I do so 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, or any other witness, or victim or any member of the victim's family in any manner.
- (iv) The applicant's failure to abide by these conditions shall entail the prosecution to apply for cancellation of bail now granted to the applicant.
- (v) Therefore, Criminal Application no. 1031 of 2019 is accordingly disposed of.

[DAMA SESHADRI NAIDU, J.]