

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

**CRIMINAL APPLICATION NO.1063 OF 2019
IN
CRIMINAL APPEAL NO. 425 of 2016**

Mr. Prashant Dinkar Dhulekar	...	Applicant
v/s.		
The State of Maharashtra	...	Respondents

Mr. Prabhakar Ramshur for the applicant.
Mrs. J.S.Lohakare, APP for the State.

CORAM : DAMA SESHADRI NAIDU, J.

10th July 2019.

P.C.

The applicant is an accused in C.R.No.8/2014 of Nashik Taluka Police Station, for the alleged offences under Sections 363,366 & 376 of IPC read with Section 4 of Protection of Children from Sexual Offence Act, 2012 ("POCSO Act"). He was tried and convicted in Sessions Case No.95/2014, through judgment dated 2nd January 2015 by the Court of Sessions at Nashik. He was sentenced to, among other things ten years rigorous imprisonment.

2. As seen from the record, the appellant was arrested on 24th

January 2015, and he continued to be in judicial custody during the course of trial. To this date he has not been enlarged on bail before or after conviction.

3. In response to the submissions made by the appellant's counsel, the learned APP agrees that the applicant had been in custody for five years six months. The victim was 15 years 11 months at the time of the alleged incident and the applicant faces allegations not only under Section 376 of IPC but also under Section 4 of "POCSO" Act.

4. Nevertheless, as the appellant had served over 50% of the sentence, in terms of the ratio laid down by Supreme Court in the case of *Hussain & anr. V/s. Union of India*¹. So, I suspend the sentence and enlarge the applicant on bail on following conditions:-

ORDER

(i) The Application is allowed.

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

1 Criminal Appeal No.509/2017 dt.9/3/17

- (iii) Pending the appeal, the applicant-accused should not contact the first informant, 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 shall entail the prosecution to apply for cancellation of bail now granted to the applicant-accused.

(DAMA SESHADRI NAIDU, J)

L.S. Panjwani, P.S.