

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

**CRIMINAL APPLICATION NO. 1897 OF 2018**

**IN**

**CRIMINAL APPEAL NO. 1412 OF 2018**

Ajinkya Ramesh Gamre

...Applicant

*Versus*

The State of Maharashtra & Anr.

...Respondent

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Mrs. Prabha Badadare i/b Omkar Nagvekar– Advocate for the applicant.

Ms. P. N. Dabholkar– APP for the Respondent – State.

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**CORAM : DAMA SESHADRI NAIDU, J.**

**DATE : 21<sup>st</sup> AUGUST 2019.**

**P.C. :**

Charged with the offences under Section 354 of IPC and Section 10, read with Section 9 (e), of the Protection of Children from Sexual Offences Act, 2012 (POCSO Act), the applicant suffered conviction. The Special Judge under the POCSO Act at Greater Bombay, in POCSO Special Case No. 151 of 2015, sentenced the applicant, among other things, to five years' rigorous imprisonment, besides awarding compensation of Rs. 15,000/- to the victim girl. It was under Section 33 (8) of the POCSO Act.

2. As the judgment was delivered on 19.10.2018, the applicant has been serving the sentence for the last 10 months. Seen from the record, the applicant was a ward boy in a hospital. He is alleged to have groped the victim girl when she was asleep as an in-patient. At any rate, earlier this Court adjourned the matter on more than one occasion to ensure that the notice was served on second respondent-victim girl, for she has been awarded the compensation.

3. Now the learned APP informs the Court that the second respondent could not be traced; she is said to have “no permanent address.” At any rate, prima facie the facts of the case entail the applicant to a bail pending the appeal. Pending the police efforts to trace the second respondent and put her on notice, the applicant can be, as a precondition for his bail, asked to deposit the compensation with the court. So I suspend the sentence and enlarge the applicant on bail subject to these conditions:

### **ORDER**

(i) The Criminal Application is allowed.

(ii) The 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.30,000/- and on his furnishing two sureties, each for the like amount.

(iii) The applicant shall deposit, while providing the bail bonds, the compensation of Rs. 15,000/- with the Trial Court, which will deposit the amount in a bank

to be paid to the second respondent, once notice is served on her.

(iv) Pending the appeal, the applicant should not abuse the liberty granted to him now.

(v) 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.]**