

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

CRIMINAL APPEAL NO.1546 OF 2018

Furkan Mohammad Ismail Kumthe Appellant

Vs.

The State of Maharashtra & Anr. Respondents

Mr. S.V. Marwadi for the appellant.

Mr. Y.M. Nakhwa, APP for State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 7th January 2019

P.C.:

1 Heard.

2 Appeal admit. Leave to add the complainant as party-respondent. Amendment to be carried out within one week from today.

(Smt. Sadhana S. Jadhav, J)

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

**CRIMINAL APPLICATION NO.2072 OF 2018
IN
CRIMINAL APPEAL NO.1546 OF 2018**

Furkan Mohammad Ismail Kumthe Applicant

Vs.

The State of Maharashtra & Anr. Respondents

Mr. S.V. Marwadi for the applicant.

Mr. Y.M. Nakhwa, APP for State.

Coram : Smt. Sadhana S. Jadhav, J.

Date : 7th January 2019

P.C.:

1 Heard the respective counsel.

2 This is an application under Section 389 of Code of Criminal Procedure. The applicant herein is convicted by the Special Court, Khed, District Ratnagiri for the offences punishable under Sections 354(A), 354(B) of the Indian Penal Code and under Section 8 of the Protection of Children from Sexual Offences Act, 2012 and

sentenced to suffer simple imprisonment for three years and a fine of Rs.5,000/-, in default to pay a fine, shall suffer simple imprisonment for six months. He is also convicted of the offences punishable under Sections 342, 504 and 506 of Indian Penal Code and sentenced to pay a fine of Rs.1,000/-, 5000/- and 7,500/- respectively and in default to pay a fine, to suffer simple imprisonment of three months, six months and nine months respectively.

3 Learned counsel for the applicant submits that the applicant was on bail during the pendency of the trial and has not committed breach of any conditions imposed upon him. It is also submitted that the applicant has been sentenced to a short term sentence and that there is no possibility of the appeal being finally heard in the near future.

4 In view of the above mentioned fact that the substantive sentence imposed upon the applicant deserves to be suspended during the pendency of the appeal. Taking into consideration that the sentence imposed upon the applicant is a short term sentence, it

would be a fit case for suspension of the substantive sentence. However, it is made clear that the suspension of substantive sentence shall not be construed as suspension of conviction. Hence, the following order.

ORDER

- i) The application is allowed and stands disposed of.
- ii) The substantive sentence imposed upon the applicant vide judgment and order dated 11th December 2018 is hereby suspended.
- iii) The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.
- iv) The applicant shall report to the Special Court, Khed, District Ratnagiri once in six months on the date assigned by the Special Judge.
- v) Upon failure to attend any two consecutive dates, the Special Court, Khed shall report the same to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

(Smt. Sadhana S. Jadhav, J)