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

**CRIMINAL APPLICATION NO. 955 OF 2016
IN
CRIMINAL APPEAL NO.537 OF 2016**

Arun Shankar Sahare	...Applicant
vs	
The State of Maharashtra	...Respondent

.....
Mr Ashish Satpute h/f Aniket Nikam for the Applicant.
Mr P.H.Gaikwad Patil, APP for the Respondent
.....

CORAM : P.N.DESHMUKH, J.

28 SEPTEMBER, 2016

P.C. :

1 Heard learned counsel for the applicant and learned APP.
This application is for suspension of substantive sentence imposed upon the applicant and for grant of bail. Learned counsel for the applicant has submitted that the applicant is not involved in any crime as alleged and was on bail pending trial, and therefore, prayed that applicant be released on bail on imposing suitable conditions.

2 Learned APP opposed the application contending that there is sufficient evidence establishing the involvement of the

applicant in an offence involving minor girl below five years.

3 Perused the documents filed along with the application. The applicant is found convicted for the offence p/u/s 354A(2) of IPC and is sentenced to suffer Rigorous Imprisonment for one years and is further convicted for the offence punishable under Section 8 of The Protection of Children From Sexual Offences Act, 2012 and is sentenced to suffer RI for three years and to pay fine of Rs.3,000/- i/d of payment of fine to suffer further RI for three months. All the sentences are directed to run concurrently.

4 It appears to be the case of the prosecution that victim girl was residing in the same chawl where the Applicant resides and as such they were acquainted to each other. On 14.7.2014 in the evening when the girl was in the company of her mother, proceeding towards their house in chawl, on seeing the Applicant present in front of his house, the victim girl informed her mother that thereafter she would not go to the house of the Applicant as on her visiting house of accused, he used to pull down her niker and used to touch her private part. On learning about such information, the complaint came to be lodged with Dehuroad Police Station and offence has been registered.

5 In the background of case of prosecution from the Doctor's evidence, it has come on record that on clinical examination prosecutrix was found to have sustained old healed scar mark on right shoulder and right upper arm and no recent evidence of injury mark over body surface was noted. On examination of her external genitals, hymen was found intact and no periurethral or perihymeneal inflammation was noticed. Considering the history given by the prosecutrix and her mother, the expert has opined that there could not be signs of any sexual assault.

6 Considering the case of the prosecution as aforesaid coupled with the Doctor's evidence and having considering the term of imprisonment imposed upon the applicant and as the Applicant was on bail pending trial, the application is liable to be allowed. Even further it is no case of the prosecution that while on bail Applicant has misused the liberty granted to him. In that view of the matter, following order is passed:

ORDER

- (i) The applicant shall be released on bail on his executing PR

bond in the sum of Rs.20,000/-, with one surety each in the like amount;

- (ii) While on bail applicant shall mark his presence with Dehuroad Police Station once in six months on 1st day of each such month, pending appeal;
- (iii) The applicant shall furnish proof of his residential address with said police station and shall update the same if changed in future.

7 The application is disposed of accordingly.

(P.N.DESHMUKH J.)