

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.1215 OF 2017
IN
CRIMINAL APPEAL NO.101 OF 2017**

Bhagwat Ganpati Kamble .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.C.R. Thorat, Advocate h/f Mr. Rupeshkumar C. Bora,
Advocate for the applicant
Mr.K.D. Mundhe, APP for the respondent/State

**CORAM : V.L.ACHLIYA, J.
DATED : 07.03.2017**

P.C. :-

. The applicant has moved this application seeking suspension of substantive sentence and release on bail, during pendency of appeal, on the grounds set out in detailed in application.

2. Heard learned counsel for the applicant and learned APP for the respondent/State and further perused the impugned judgment and order dated 07.01.2017 passed by Additional Sessions Judge, Biloli, in Sessions Case No.37 of 2014.

3. The applicant was tried for committing the offence under Sections-354,354-A(i), 354-B of the Indian Penal Code and Section-7 of the Protection of Child From Sexual Offence Act. On conclusion of the trial the trial Court has convicted the applicant under Section-8 of the Protection of Children from Sexual Offence Act, 2012 and sentenced him to suffer R.I. for three years and to pay fine of Rs.5,000/- and for committing offence under Section-354 of the Indian Penal Code sentenced him to suffer R.I. for three years. Both the sentences ordered to be run concurrently. Being aggrieved by the impugned judgment and order dated 07.01.2017 passed in Sessions Case No.37 of 2014 passed by the the learned Additional Sessions Judge, Biloli, the applicant has preferred the appeal.

4. In nutshell it is the contention of the learned counsel for the applicant that the impugned judgment and order is not sustainable in law and there are fair chances to succeed in appeal. He further submits that at the time of commission of offence the applicant was aged about 21 years and looking to his young age, nature of offences and sentence awarded the applicant be enlarged on bail. He further submits that during the trial the applicant was on bail and on conviction the trial Court has suspended the sentence to enable the applicant to

prefer the appeal.

5. Learned APP has opposed the application with contention that there is a prima facie case to connect the applicant with the commission of offence. He further submits that in case the applicant is enlarged on bail he may abscond or cause threat to the prosecution witnesses who have deposed against him and may indulge into similar type of offences.

6. Having appreciated the submissions advanced in the light of reasons and findings recorded by the trial court and looking to the age, nature of the offences and sentence awarded, I am of the view the applicant deserves to be enlarged on bail during pendency of the appeal. During the pendency of the appeal the applicant was on bail. The apprehension expressed by the prosecution can be well addressed by imposing the certain conditions. Hence the following order.

ORDER

I) Application is allowed.

II) Pending disposal of appeal the execution of substantive sentence awarded to the

applicant stands suspended subject to deposit of fine.

III] Pending disposal of appeal the applicant namely Bhagwat Ganpati Kamble be released on bail on his furnishing bail in the sum of Rs.50,000/- with one surety in like amount on the following conditions.

a) The applicant shall mark his attendance before the Police Station, Naigaon, Tq. Naigaon, Dist. Nanded on last day of each month in between 10.00 am to 11.00 am. till final disposal of the appeal.

b) The applicant shall furnish the names and addresses of his 3 close relatives with phone numbers.

c) The applicant shall not cause threat to complainant and other prosecution witnesses.

d) In the event of change in address the applicant shall intimate concerned Police Station as well as this Court.

e) During pendency of the appeal the applicant shall not involve in any criminal

case.

IV) In the event of breach of any of the conditions, the bail granted to the applicant liable to be canceled.

V) Bail to be furnished before the trial Court. In case the bail is not furnished before the trial Court within two weeks from the date of this order, the order of suspension of sentence stands re-called and canceled.

VI) The trial Court is directed to report the compliance of furnishing of bail within three weeks to this Court.

VII) The Office In-Charge of the Police Station, Naigaon, Tq. Naigaon, Dist. Nanded is directed to submit the report of compliance of conditions of bail after every six months till final disposal of the appeal.

[V.L.ACHLIYA,J.]