

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

**CRIMINAL APPLICATION NO.1453 OF 2017
IN
CRIMINAL APPEAL NO.112 OF 2017**

Arpit Yohan Agamkar

.. Applicant

Versus

The State of Maharashtra

.. Respondent

Mr.Sudarshan J. Salunke, Advocate for the applicant

Mr.K.S. Hoke Patil, APP for the respondent/State

CORAM : V.L.ACHLIYA, J.

DATED : 23.03.2017

P.C. :-

. The applicant has moved this application seeking suspension of sentence and release on bail during pendency of the appeal on the ground set out in detail in the memo of appeal.

2. The applicant was tried for committing of offence under Section 354-A(1)(i) and Section 7 r/w Section 8 of the Protection of Children from Sexual Offences, Act, 2012 with an allegation that he has sexually harassed and assaulted a minor girl who was attending the dance class run by the applicant. On conclusion of the trial the trial Court has convicted the applicant and sentenced to suffer R.I. for two years and

fine of Rs.2000/- for committing offence under Section 354-A(1)(i) of the Indian Penal Code and R.I. for three years and fine of Rs.3000/- for committing offence under Section 7 r/w Section 8 of the Protection of Children From Sexual Offences Act, 2012. Both the sentences are ordered to be run concurrently.

3. In nutshell it is the contention of the learned counsel for the applicant that there is absolutely no evidence much less sufficient to sustain the conviction. He further submits that the girl was not interested to undergo dance training and she was forced to attend the class by her parents. In order to avoid to attend the dance class she cooked up a false story that the applicant has improperly touched her private part, in the pretext of teaching her dance steps. The learned counsel for the applicant further submits that during the trial the applicant was on bail. The trial Court has suspended the sentence to enable the applicant to prefer an appeal. He further submits that the wife of the applicant is in advance stage of pregnancy and he is sole earning member in his family to take care of his wife and his old aged parents.

4. Learned APP has opposed the application with contention that the applicant has committed serious

offence of sexual assault on a minor girl aged about 9 years under the pretext of showing her steps of dancing.

5. Having regard to the submissions advanced in the light of reasons and findings recorded by the trial court and over all facts of the case, the nature of the offence and sentence awarded, I am of the view the applicant be enlarged on bail as it is not possible to immediately take up the appeal for final hearing. In this view the application is allowed subject to 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 Arpit Yohan Agamkar be released on bail on his furnishing bail in the sum of Rs. 35,000/- with one surety in like amount on the following conditions.

- a) The applicant shall mark his attendance before the Police Station Sadar Bazar, Jalna, Tq. & Dist. Jalna 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 meet the victim girl and her parents and shall not cause threat to them.
- d) In the event of change in address the applicant shall intimate concerned Police Station as well as this Court.
- e) During pending 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 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.

VI) The Office In-Charge of the Police Station Sadar Bazar, Jalna, Tq. & Dist. Jalna is directed to submit the report of compliance of conditions of bail after every six months.

[V.L.ACHLIYA, J.]