

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

**CRIMINAL APPLICATION NO.1800 OF 2017  
IN  
CRIMINAL APPEAL NO.135 OF 2017**

Digambar Hulram Nimalwad

.. Applicant

**Versus**

The State of Maharashtra

.. Respondent

Mr.V.P. Golewar, Advocate for the applicant

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

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

**DATED : 17.04.2017**

**P.C. :-**

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

2. Heard learned counsel for the applicant and APP for the respondent/State and further perused the impugned judgment and order dated 02.03.2017 passed by the Additional Sessions Judge, Kandhar, in Sessions Case No. 38 of 2014. The applicant was tried for committing offences punishable under Sections 323, 354, 376, 452 and 506 of the Indian Penal Code. On conclusion of the trial

the learned Additional Sessions Judge, Kandhar has acquitted the applicant under Sections 323, 376, 452 and 504 of the Indian Penal Code and convicted under Section 354 of the Indian Penal Code and sentenced to suffer R.I. for one year and pay fine of Rs.500/-. Being aggrieved the applicant has preferred the appeal.

3. On perusal of the judgment and order passed by the trial Court reflects that the prosecutrix has not supported the case of the prosecution and declared hostile. Having regard to overall facts of the case, nature of the offences for which the applicant is convicted and sentence awarded, I am of the view the case is made out to entertain the application. Learned counsel for the applicant submits that during the trial the applicant was on bail. The trial court has suspended the sentence. The fine amount is already deposited. 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 Digambar Hulram Nimalwad be released on bail on his furnishing bail in the sum of Rs.25,000/- with one surety in like amount on the following conditions.

- a) The applicant shall mark his attendance before the Police Inspector, Police Station Mukramabad, Dist. Nanded on every month of last day 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 pending of the appeal the applicant shall not involve in any criminal case.

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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 recalled and canceled.

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

VII) The Police Inspector, Police Station Mukramabad, 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.]**