

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

**CRIMINAL APPLICATION NO. 2872 OF 2017
IN
CRIMINAL APPEAL NO. 235 OF 2017**

Rahul @ Gangaram Tukaram Surwade **APPLICANT**

V E R S U S

The State of Maharashtra **RESPONDENT**

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Mr. A.I.Deshmukh, Advocate for Applicant.

Mr. G.O.Wattamwar, A.P.P. for Resp. - State.

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CORAM : V.L.ACHLIYA, J.

DATE : 20th JUNE, 2017

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ORDER :

1. The applicant has taken out this application seeking suspension of sentence and release on bail during pendency of Appeal, for the reasons set out in detail in the application.

2. Heard the learned counsel for the applicant, A.P.P. for the respondent – State and further perused the Judgment and order passed by the trial Court as well as depositions of witnesses examined by the prosecution.

3. The applicant was charge sheeted for the offence punishable u/s 354 of the Indian Penal Code and u/s 8 and 12 of the Protection of Children from Sexual Offences Act, 2012 [for short, 'POCSO Act']. The applicant/accused was tried for the offences with the allegation that on 11/08/2015 at 2.00 p.m., the victim girl aged 12 years when went in nearby agricultural land to attend nature's call, the applicant went there, pressed her mouth and asked her to allow him to have sexual intercourse with her. He hug her and pressed her mouth and breast. When the victim raised shouts, her brother rushed to the spot and the applicant ran away. On conclusion of trial, trial Court has convicted the applicant for the offence punishable u/s 354 of the of the Indian Penal Code and u/s 8 and 12 of the POCSO Act. He has been sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs. 1,000/- for each of the offence. Being aggrieved, the applicant/appellant has preferred Appeal and pending disposal of Appeal, prayed for suspension of sentence and release on bail.

4. In nut-shell, it is the contention of the learned counsel for the applicant that the applicant is falsely implicated in the case. He submits that there was

animosity in between the mother of the applicant and the mother of victim girl. He submits that there is no independent witness, though the incident is alleged to occur in the day time. He further submits that there is no cogent and convincing evidence to sustain the conviction.

5. On the other hand, learned A.P.P. opposed the application with the contention that there is strong evidence to sustain the conviction. He submits that the prosecutrix has fully supported the prosecution case. He further submits that there is no reason to discard or disbelieve her testimony. He submits that looking to the nature of offence and age of the victim girl, the application be rejected.

6. In order to appreciate the submissions advanced, I have perused the impugned Judgment and order and the copies of depositions placed on record. Considering the overall facts of the case, nature of offence, sentence awarded and the fact that during the trial, the applicant was on bail and the trial Court has suspended the sentence enabling the applicant to prefer Appeal, I am of the view that the applicant be enlarged on bail. However, looking to the nature of offence, age of the

victim girl and growing offences of such nature as against minor girls, the Appeal in respect of such offences deserves to be heard expeditiously. I am, therefore, inclined to pass the following order.

ORDER

[1] Pending disposal of the appeal, the execution of substantive sentence stands suspended subject to deposit of fine amount by the applicants.

[2] Applicant Rahul @ Gangaram Tukaram Surwade be enlarged on bail on his furnishing bail in the sum of ₹ 50,000/- [Rupees Fifty Thousand] with one or two sureties in like amount on following conditions.

[i] Pending disposal of the Appeal, the applicant shall appear and record his appearance before the Police Inspector of Jamner Police Station, Dist. Jalgaon on 2nd Sunday in each month in between 5.00 to 8.00 p.m.

[ii] Pending disposal of the appeal, the applicant shall not indulge in the commission of any criminal offence.

[iii] The applicant shall not contact or cause threat to the prosecutrix or her family members.

[iv] The applicant shall furnish the names and addresses of his three (3) close relatives.

[3] In case of breach of any of the condition, the bail granted to the applicant shall be liable to be cancelled.

[4] Police Inspector of Jamner Police Station, Dist. Jalgaon is directed to submit the report in respect of compliance of conditions after every six months.

[5] Bail to be furnished in the trial Court within the period of suspension as ordered by the trial Court or within one week from the date of this order. Failure to furnish the bail within the stipulated period, the order of grant of bail stands cancelled. Compliance report be sent to this Court.

[6] Hearing of appeal is expedited. List the Appeal for final hearing on 21/08/2017.

[V.L.ACHLIYA, J.]