

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

CRIMINAL APPLICATION NO. 205 OF 2017
IN
CRIMINAL APPEAL NO. 117 OF 2017

Dnyaneshwar Rajaram Aswale ..Applicant

v/s.

The State of Maharashtra & Anr. ..Respondents

Mr. Sushil Inamdar i/b. Pandurang Chavan for the Applicant.
Mr. H.J.Dedhia APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : NOVEMBER 21, 2017.**

P.C.

1. The applicant herein, who is accused in Sessions Case No. 65 of 2016 has filed this application for suspension of execution of sentence imposed by the learned Addl. Sessions Judge, Nashik, vide judgment dated 14th July, 2016, and for releasing him on bail.
2. Heard the learned Counsel for the applicant and the learned APP for the State.
3. The records reveal that the applicant herein was prosecuted for

the offences under Section 354, 451, 423 of Indian Penal Code and Section 12 of Protection of Children from Sexual Offence Act, 2012, The learned Special Judge, after considering the evidence on record has held that the applicant is guilty of the offences under Section 354A and 451 of IPC, and has sentenced him to undergo rigorous imprisonment for one year and to pay fine of Rs.5000/- i/d. rigorous imprisonment for one month in respect of each of these offences. Both the sentences are ordered to run concurrently.

4. The learned Counsel for the applicant has submitted that the applicant has already deposited the fine amount. He has further submitted that the applicant was on bail during pendency of trial.

5. The applicant has been sentenced to undergo short term imprisonment of one year. The appeal is of the year 2017 and is not likely to come up for final hearing in the next couple of years due to large pendency of old cases. Hence, rejection of application will result in the applicant undergoing the sentence of imprisonment even before the appeal is heard on merits. It is not in dispute that the applicant has not violated the terms of bail bond during the period when he was released on bail.

6. Considering the above factors, and also considering the nature of the allegations and the evidence in support thereof, in my considered view, this is a fit case for suspending the execution of sentence and releasing the applicant on bail, during pendency of the appeal. Hence, the order:

- (i) The application is allowed.
- (ii) The execution of sentence imposed by the learned Addl. Sessions Judge, Nashik, vide judgment dated 14th July, 2016, in Sessions Case No.65 of 2016 is suspended till the final disposal of the appeal on merits, subject to the applicant furnishing fresh bail bond in the sum of Rs.10,000/- (Rupees Ten Thousand Only) with one solvent surety in the like amount to the satisfaction of the learned Addl. Sessions Judge, Nashik.
- (iii) The applicant shall not interfere with the victim girl in any manner.
- (iv) The applicant shall furnish his contact number and his local as well as permanent address, if any, to the Investigating Officer as well as in the fresh bail bonds.

(ANUJA PRABHUDESSAI, J.)