

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.447 OF 2017

IN

CRIMINAL APPEAL NO.257 OF 2017

NITIN BHIVSEN GADAGE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Ms.Ulka Saranjame, Advocate for the Applicant.

Mr.Ameet Palkar, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 31st MARCH 2017

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/ accused on bail during pendency of the appeal filed by him. The applicant/ accused has been convicted of the offence punishable under Section 354 of the IPC and under Section 8 of the Protection of Children from Sexual Offences Act, 2012, (POCSO Act). For the offence punishable under Section 354 of the IPC, he is sentenced to suffer rigorous imprisonment for

one year and for the offence punishable under Section 8 of the POCSO Act, he has been sentenced to suffer rigorous imprisonment for 3 years. In addition to jail sentence, the applicant/ accused is directed to pay fine of Rs.1500/-.

2 Heard the learned advocate appearing for the applicant/ accused. She argued that considering the short sentence imposed on the applicant/ accused and the fact that the appeal will not be heard in near future, non-granting the release would render the appeal infructuous.

3 The learned APP opposed the application by contending that the offence is held to be proved by the trial court.

4 I have carefully considered the rival submissions and also perused the impugned judgment and order, apart from deposition of witnesses. Short sentence of three years is imposed on the applicant/ accused and that has already been suspended by the learned trial court vide order dated 21st January 2017. In this

view of the matter, as the appeal is not likely to be heard in near future, the following order :

- i) The application is allowed.
- ii) Substantive sentence of imprisonment imposed upon the applicant/ accused is suspended and the applicant/ accused is directed to be released on bail on his executing P.R.Bond in the sum of Rs.15,000/- and on furnishing surety in like amount.
- iii) As a condition of this order, the applicant/ accused should not contact the witnesses examined by the prosecution in any manner and should not extend threat, promise or inducement to them.

(A. M. BADAR, J.)