

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.537 OF 2017

IN

CRIMINAL APPEAL NO.320 OF 2017

ANAND DIGAMBER GANGANE

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Veerdhaval Kakade, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 10th APRIL 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 offences punishable under Sections 451 and 354 of the IPC as well as under Section 8 of the Protection of Children from Sexual Offences Act, 2012, (POCSO Act). For the offence punishable under Section 451 of the IPC, the applicant/ accused is sentenced

to suffer rigorous imprisonment for 1 year apart from directing him to pay fine of Rs.1,000/- and in default to suffer rigorous imprisonment for three months. For the offence punishable under Section 8 of the POCSO Act, he is sentenced to suffer rigorous imprisonment for 3 years apart from payment of fine of Rs.5,000/-, in default, to undergo further rigorous imprisonment for six months.

2 Heard the learned advocate appearing for the applicant / accused. By drawing my attention to the evidence of defence witness no.1 Raju – father of the alleged victim female child, the learned advocate for the applicant/ accused argued that evidence of this defence witness goes to show that he was sleeping at the door of the house where the victim female child was residing. This defence witness, who is father of the victim female child has testified that nothing of the sort alleged by the prosecution had happened on the day of the incident, but still the learned trial court has convicted the applicant/ accused.

3 The learned APP opposed the application by contending that charges are found to be proved against the applicant/ accused.

4 I have carefully considered the rival submissions and also perused the impugned judgment and order of conviction so also deposition of witnesses. Short sentence of three years is imposed on the applicant/ accused which is already suspended by the learned trial court. Father of the victim female child has denied happening of the alleged incident. Appeal will take its own time for hearing. The substantive sentence of imprisonment is already suspended by the trial court. Therefore the order :

- i) The application is allowed.
- ii) Substantive sentence of imprisonment imposed on the applicant/ accused is suspended and he 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 victim female child or her relatives in any manner.

(A. M. BADAR, J.)