

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.553 OF 2017
IN
CRIMINAL APPEAL NO.328 OF 2017**

Nagesh Aba Vidhate ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

.....

Mr.Prashant Pandit, Advocate for the Applicant.
Mr.S.V.Gavand, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 12th 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 which is already admitted for final hearing by this Court.

2 The applicant/accused is convicted of offence punishable under Sections 363 and 354-B of the Indian Penal Code and under Section 7 read with Section 8 of the Protection of Children from Sexual Offences Act, 2012 by the learned trial Court. On each count, he has sentenced to suffer rigorous

imprisonment for three years apart from imposition of some fine as well as the sentence in default thereof. All substantive sentences are directed to run concurrently.

3 Heard the learned Advocate appearing for the applicant/accused. He argued that the applicant was on bail during pendency of the trial and short sentence of imprisonment is imposed on the applicant/accused.

4 The learned Additional Public Prosecutor opposed the application by contending that the trial Court has held that the alleged offences are proved by the prosecution and the application deserves to be rejected.

5 I have carefully considered the rival submissions and also perused the copies of depositions of witnesses examined by the prosecution, so also the impugned Judgment and Order. Short sentence of three years has been imposed on the applicant/accused. Considering pendency of appeals before this Court, there is no likelihood of hearing of this appeal in the near future. The applicant/accused was on bail during pendency of the trial and there is nothing on record to conclude that he has misused his liberty. Substantive sentence of imprisonment has already been suspended by the learned trial Court. Therefore, the following order :

- (i) The application is allowed.
- (ii) The substantive sentence of imprisonment imposed on the applicant/accused is suspended and he is directed to release on bail on executing PR bond of Rs.15,000/- and on furnishing surety in the like amount.
- (iii) As a condition of this Order, the applicant/accused should not contact the prosecutrix or her relatives in any manner and he should not extend threat, promise or inducement to the prosecutrix or her relatives.

(A.M.BADAR J.)