

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

**CRIMINAL APPLICATION NO.591 OF 2017
IN
CRIMINAL APPEAL NO.355 OF 2017**

Mr. Dinesh Harji Malkari

...Appellant

Versus

The Union Territory of Dadra and
Nagar Haveli

...Respondent

.....

Mr. Sameer P. Nangre for the Applicant.

Ms Purnima H. Kantharia PP for the Respondent No.1-Union
Territory of Dadra and Nagar Haveli.

CORAM :SMT. ANUJA PRABHUDESSAI, J.

DATED: 11th AUGUST, 2017.

P.C.:-

By this application, the Applicant has sought suspension of execution of substantive sentence pending the appeal. The Applicant has been held guilty of offences punishable under Sections 452 and 354 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offence Act, 2012. He has been sentenced to undergo rigorous imprisonment for three years and fine upto Rs.200/- in respect of each of these offences. The sentence of imprisonment is to run concurrently.

2. The learned counsel for the Applicant has submitted that the Applicant has already deposited the fine amount and the learned Judge has suspended the execution of sentence of imprisonment till filing of the appeal. The maximum period of sentence awarded is three years. The appeal is of the year 2017. Considering the large pendency of the cases, the Appeal is not likely to come up for final hearing in the next couple of years. Hence, rejection of prayer to suspend the execution of substantive sentences will result the Applicant undergoing the imprisonment even before his Appeal is decided on merits. Considering the above facts as well as the nature of offence in my considered view execution of substantive sentence needs to be suspended pending hearing and final disposal of the Appeal. Hence, the following order:-

ORDER

- (i) The Application is allowed.
- (ii) The execution of substantive sentence in Sessions Case No.7 of 2014 is suspended till hearing and final disposal of the Appeal subject to the Applicant furnishing bail bond of Rs.15,000/- (Rupees Fifteen Thousand) with one or two sureties to the like amount to the satisfaction of Sessions Judge, Dadra

and Nagar Haveli, Silvassa.

(iii) The Applicant shall furnish his permanent as well as local address, if any, and shall intimate change of address, if any, to the Investigating Officer, as well as to the concerned Court.

(iv) The Applicant shall not interfere with the victim in any manner.

(ANUJA PRABHUDESSAI, J.)