

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.595 OF 2017
IN
CRIMINAL APPEAL NO.280 OF 2017**

Raj Kishor Shinde ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents

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Mr. Sachin B. Chandan for the Applicant.

Mr. P.H. Gaikwad, APP for the Respondent No.1-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 16th AUGUST, 2017.

P.C.:-

By this application, the Applicant has sought suspension of substantive sentence in Sessions Case No.234 of 2014.

2. Heard the learned counsel for the Applicant and the learned APP for the Respondent-State. Perused the notes of evidence and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent.

3. The Applicant herein was an accused in Sessions Case No.234 of 2014. He has been held guilty of offence under Section 354 of the Indian Penal Code and Section 8 of the Protection of Children from Sexual Offences Act (for short 'the POCSO Act'). He has been

sentenced to undergo maximum imprisonment of three years and total fine of Rs.6,000/-. The endorsement on record reveals that the Applicant has already deposited Rs.6000/- before the Special Court, Pune.

4. The sentence awarded is a short term imprisonment for a maximum period of 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 sentence will result in the Applicant undergoing the term of imprisonment even before his Appeal is decided on merits. Furthermore, the Applicant was on bail during the trial and there are no allegations of the accused having violated the terms and conditions of the bail. Considering the nature of allegations levelled against the Applicant and the evidence in support thereof, in my considered view this is a fit case for suspension of execution of substantive sentence of imprisonment pending disposal of the Appeal. Hence, the following order is passed:-

ORDER

- (i) The application is allowed in terms of prayer clause (a).

- (ii) Execution of substantive sentence in Special Case No.234 of 2014 before the Special (Child) Court, Pune, is suspended till the final disposal of the Appeal on merits, subject to the Applicant furnishing bail bonds of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety to the like amount to the satisfaction of Special Court, Pune.
- (iii) The Applicant shall furnish his contact number and 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.)