

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

**CRIMINAL APPLICATION NO. 733 OF 2017  
IN  
CRIMINAL APEAL NO. 378 OF 2017**

Rajendra @ Dadasaheb Prakash  
Magadum (Naik)

.. Applicant

v/s.

The State of Maharashtra

..Respondent

Ms. Hema Suvarnakar a/w. Ms. Megha Bajoria i/b. Kuldeep Patil for  
the Applicant.

Mr. Shahajirao Shinde APP for the Respondent.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.  
DATED : 22<sup>nd</sup> AUGUST, 2017.**

**P.C.**

1. The applicant herein was the accused no.2 in Special Case (POCSO) No.23 of 2014, on the file of the Special Judge and Addl. Sessions Judge-2, Sangli. By this application the applicant has sought suspension of execution of sentence imposed by the learned Special Judge vide judgment dated 27<sup>th</sup> March, 2017.

2. Heard the learned Counsel for the applicant and the learned APP for the State. Perused the record and considered the submissions advanced by the learned Counsel for the respective parties.

3. The records reveal that the applicant herein along with the co-accused Vikram was charged for offence punishable under Section 8 of the Protection of Children from Sexual Offence Act and sentenced to suffer Rigorous Imprisonment for three years and to pay fine of Rs.1000/- in default to suffer Simple Imprisonment for one month. The applicant and the co-accused are also held guilty of offence under Section 354 r/w. 34 of the Indian Penal Code and sentenced to suffer Rigorous Imprisonment for one year and to pay fine of Rs.1000/- in default to suffer simple imprisonment for one month. The applicant has been acquitted of the offence under Section 504 of the Indian Penal Code.

4. The learned Counsel for the applicant has submitted that the applicant has already deposited the fine amount. She has further

submitted that the co-accused Vikram has been granted bail by order dated 3<sup>rd</sup> May, 2017.

5. The applicant was on bail during pendency of the trial case. There is nothing on record to indicate that the applicant has violated the terms and conditions of bail. The sentence imposed is short term imprisonment of three year. The appeal is of the year 2017 and is not likely to come up for final hearing in the next couple of years due to large pendency of old cases. Hence, rejection of the application will result in the applicant undergoing the entire term of imprisonment even before the appeal is heard on merits.

6. Considering the above facts and also considering the fact that the co-accused is already enlarged on bail, in my considered view, this is a fit case for suspension of execution of sentence pending the hearing of the appeal on merits. Hence the order.

- I. The application is allowed in terms of prayer clause (a).
- ii. Pending the hearing and final disposal of the appeal on merits, the execution of sentence imposed vide judgment dated 27<sup>th</sup> March,

2017 in Special Case (POCSO) No.23 of 2014, by the Special Judge and Addl. Sessions Judge-2, Sangli suspended till disposal of the appeal on merits, on the applicant furnishing fresh bail bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two solvent surety/ies in the like amount to the satisfaction of the learned Special Judge and Addl. Sessions Judge-2, Sangli.

Iii) The applicant shall furnish his contact number, and his local as well as permanent address, if any, to the Investigating Officer as well as in the fresh bail bonds.

**(ANUJA PRABHUDESSAI, J.)**