

Anand

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

CRIMINAL APPLICATION NO.917 OF 2017

(For Suspension Of Sentence And Bail)

IN

CRIMINAL APPEAL NO.608 OF 2017

Shailesh Kashiram Yadav

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr.A.M.Purohit, Advocate, for the Applicant

Mr.S.S.Hulke, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 18.07.2017

P.C.

. Heard learned counsel for the parties.

2. By this Application, the Applicant seeks suspension of his sentence & enlargement on bail, pending the hearing and final disposal of the aforesaid Appeal.

3. The Applicant has been convicted & sentenced vide Judgment and Order dated 27.04.2017, passed by the learned Additional Sessions Judge, Sessions Court, Greater Mumbai, in POCSO Spl.case No.107 of 2014 as under :-

- For the offence punishable under Section 354 of the Indian Penal Code to suffer R.I. for one year and to pay fine of Rs.500/-, in default to suffer S.I. for further period of 15 days;
- For the offence punishable under Section 506(II) of the Indian Penal Code to suffer R.I. for two years and to pay fine of Rs.500/-, in default to suffer S.I. for further period of 15 days;
- For the offence punishable under Section 509 of the Indian Penal Code to suffer R.I. for six months and to pay fine of Rs.500/-, in default to suffer S.I. for further period of 10 days;
- For the offence punishable under Section 12 of the Protection of Children from Sexual Offences Act to suffer R.I. for one year and to pay fine of Rs.500/-, in default to suffer S.I. for further period of 15 days;

All the sentences are directed to run concurrently.

4. Learned counsel for the Applicant states that the Applicant was on bail pending the trial and has not abused or misused the conditions of bail. He further submits that even after the Applicant was convicted, his sentence was suspended. According to the learned counsel for the Applicant, the prosecution has failed to prove the age of

the victim girl. He submits that admittedly, no occipital test was also done.

5. Learned APP has not disputed the fact, that whilst on bail, the Applicant has not abused or misused the conditions of bail. The Appeal has been admitted by a separate order passed today. The sentence imposed is a short term sentence. Considering the fact, that the Appeal is not likely to be heard in the immediate near future and the fact that the Applicant was on bail pending the trial and has not abused or misused the conditions of bail, the Applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his Appeal on the following terms & conditions:-

O R D E R

(i) The Applicant be enlarged on bail, on executing PR Bond in the sum of **Rs.15,000/-** with one or two sureties in the like amount.

6. Accordingly, the Application is disposed of on the aforesaid terms.

Parties to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)