

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

CRIMINAL APPLICATION NO. 1146 OF 2017
IN
CRIMINAL APPEAL NO. 667 OF 2017

Mukesh Murli Gupta ..Applicant

v/s.

State of Maharashtra . ..Respondent

Mr. Sanjay Rathod i/b. Rajendra Mokashi for the Applicant.
Mr.P.H.Gaikwad APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : OCTOBER 06, 2017.**

P.C.

1. The applicant herein was an accused in POCSO Special Case No. 48 of 2014 on the file of the Special Judge under POSCO Act, City Civil & Sessions Court, Gr. Bombay. By this application, the applicant has sought suspension of execution of sentence imposed vide judgment dated 25th July, 2017 in the said special case and has prayed for release on bail.

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 Counsels for the respective parties.

3. The records reveal that the applicant herein was prosecuted for offence under Section 354(D) of IPC and Section 8 and 12 of the Protection of Children from Sexual Offenders (POCSO) Act, 2012. By judgment dated 25th July, 2017 the learned Judge acquitted the applicant for offences under Section 354(D) of IPC and Section 12 of POSCO Act, and convicted him for the offence under Section 8 of the POCSO Act and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.500/- in default to suffer further rigorous imprisonment for one month.

4. The records reveal that the applicant has been sentenced to undergo short term imprisonment of three years. 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 sentence of imprisonment even before the appeal is heard on merits.

5. The applicant was on bail during pendency of the trial. There is nothing on record to indicate that the applicant has violated the terms and conditions of the order.

6. Considering the above facts, as well as the nature of the charge and the evidence thereof, in my considered view, this is a fit case to suspend the execution of sentence pending the disposal of the appeal

on merits. Hence the order,

- i) The application is allowed.
 - ii) The execution of sentence imposed in POCSO Special Case No. 48 of 2014 vide judgment dated 25th July, 2017 is suspended till disposal of the appeal on merits, on the applicant furnishing fresh bail bond in the sum of Rs.,20,000/- with one or two solvent sureties in the like amount, to the satisfaction of the Special Judge under POSCO Act, City Civil & Sessions Court, Gr. Bombay.
 - iii) The applicant shall not interfere with the victim girl in any manner.
 - iv) The applicant shall furnish his local as well as permanent address, if any, and his contact number, to the Investigating Officer as well as in the fresh bail bonds.
- . Application is accordingly disposed of.

(ANUJA PRABHUDESSAI, J.)