

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

**CRIMINAL APPLICATION NO.1088 OF 2017
IN
CRIMINAL APPEAL NO.645 OF 2017**

Vijay Balu Chaudhari ...Applicant

Versus

The State of Maharashtra ...Respondent

.....

Mr. Sachin R. Pawar for the Applicant.

Mr. Rajan Salvi, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 16th AUGUST, 2017.

P.C.:-

By this application, the Applicant has prayed for suspension of execution of substantive sentence imposed in Special POCSO Case No.44 of 2014 pending the Appeal.

2. Heard the learned counsel for the Applicant and the learned APP for the Respondent -State. Perused the records and considered the submissions advanced by the learned counsels for the respective parties.

3. The Applicant herein has been held guilty of the offence punishable under Section 354 A of the Indian Penal Code and Section 8

of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act'). He has been sentenced to undergo maximum sentence of simple imprisonment for a period of three years and to pay fine of Rs.500 i/d. to undergo simple imprisonment for three months.

4. The learned counsel for the Applicant submitted that the Applicant has already deposited the fine amount before the Trial Court. The Applicant is sentenced for short term imprisonment 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 execution of substantive sentence will result in the Applicant undergoing the imprisonment even before his Appeal is decided on merits. Furthermore, the Applicant was on bail during the trial and has not violated any terms and conditions of the bail. Considering the above facts and circumstances and also having considered the nature of the offence and the evidence in support thereof, in my considered view this is a fit case to suspend the execution of substantive sentence. Hence, the following order is passed:-

ORDER

(i) The application is allowed;

(ii) Execution of substantive sentence in Special POCSO

Case No.44 of 2014 is suspended pending the hearing and final disposal of the Appeal on the Applicant furnishing the bail bonds of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety to the like amount to the satisfaction of Special Judge, POCSO, Sessions Court, Thane.

(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.)