

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1110 OF 2017
IN
CRIMINAL APPEAL NO. 655 OF 2017

Shrikantsngh Sukhdev Singh Applicant.
Versus
The State of Maharashtra. ...Respondent

Mr.R.N.Gite for the Appellant.
Mr. S.V.Gavand, APP for the State/Respondent.

CORAM: A.M.BADAR,J
DATED: 21st September, 2017

PC:-

1. This is an application for suspension of sentence and releasing the applicant/accused on bail during the pendency of the appeal filed by him. After the Trial the applicant/accused is convicted of the offence punishable under section 5(n) r/w 6 of the Protection of the Children from Sexual Offences Act as well as under Section 506 of the Indian Penal Code. He has been sentenced to suffer rigorous

imprisonment for 10 years apart from directions to pay fine of Rs.2500/-.

2. Heard the learned Advocate appearing for the applicant/accused at sufficient length of time by taking me through the order passed by this court in Criminal Application No.1132 of 2016. The learned Advocate submitted that during the pendency of the trial the applicant/accused was on bail and he has not misused the opportunity. He has further argued that there is delay in lodging the First Information Report and when the alleged victim of the crime in question was taken to shelter home she has not disclosed the incident of rape on her. She was having two boy friends, with whom she had sexual relations. Therefore, in submission of the learned advocate for the applicant/accused, as there is no earning member at the house of the applicant, he needs to be released on bail. The learned APP opposed the application.

3. I have carefully considered the submission advanced and also perused copies of deposition as well as impugned judgment and order. Particularly material brought on record from the cross examination of the victim, it is seen that she was a female child at the time of the incident in question. Her mother had deserted her father and therefore, she was required to be at the mercy of her aunt. The applicant is husband of the aunt of the victim a minor female child. She has categorically stated that the applicant had committed penetrative sexual assault with her repeatedly.

4. A woman may be having easy virtue but that does not mean that all and sundry can take advantage of this fact. She has right to say no. Therefore, even if, it is assume that the victim was having two boy friends that does not empower the applicant to commit penetrative sexual assault on her. She had not attained consenting age. Unavailability of earning particularly in the family is not a relevant consideration for suspension of sentence.

5. The offence alleged is serious. After due trial the applicant/accused is held guilty of the offence. Hence, no case for grant of bail is made out. Hence the application is rejected.
6. The application is disposed of accordingly.

(A.M. BADAR, J.)