

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

**CRIMINAL APPLICATION NO.1119 OF 2017
IN
CRIMINAL APPEAL NO.490 OF 2017**

Juber Mohammad Ali Shaikh	...Applicant
Versus	
The State of Maharashtra	...Respondent

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Mr. Ujwal R. Agandsurve for the Applicant.
Mr. Shahajirao Shinde, APP for the Respondent -State.

CORAM :SMT. ANUJA PRABHUDESSAI, J.

DATED: 11th AUGUST, 2017.

P.C.:-

This is an application for bail and for suspension of execution of substantive sentence imposed on the Applicant. The Applicant herein has been convicted for offence punishable under section 354 (A) of the Indian Penal Code and Sections 7 and 9(m) of the Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO'). The Applicant is sentenced to undergo :-

- (i) rigorous imprisonment for 1 year for offence punishable under section 354 (A) of the IPC and to pay fine of Rs.1000/- i/d. to undergo rigorous imprisonment for one month;

- (ii) rigorous imprisonment for three years for offence punishable under section 7 of the POCSO and to pay fine of Rs.2000/-i/d. rigorous imprisonment for four months; and
- (iii) rigorous imprisonment for five years for offence punishable under Section 9(m) of the POCSO and to pay fine of Rs.3000/- i/d to undergo rigorous imprisonment for six months.

The substantive sentence is to run concurrently. Out of the total fine amount of Rs.6000/- an amount of Rs.4000/- is ordered to be paid to the victim as compensation.

2. Mr. Ujwal Agandsurve, the learned counsel for the Applicant submits that the Applicant has already deposited the fine amount before the Additional Sessions Judge, Solapur.

3. The Applicant is in custody since 17.3.2017. The maximum sentence as stated earlier is of five 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 the execution of substantive sentence

will result the Applicant undergoing the imprisonment even before his Appeal is decided on merits. Considering the above facts as well as the nature of the offence in my considered view, execution of substantive sentence needs to be suspended pending hearing and final disposal of the Appeal. Hence, the following order:-

ORDER

- (i) The Application is allowed.
- (ii) The Applicant is ordered to be released on bail on furnishing bail bond of Rs.20,000/- (Rupees Twenty Thousand) with one or two sureties to the like amount to the satisfaction of Additional Sessions Judge, Solapur.
- (iii) The execution of substantive sentence in Sessions Case No.81 of 2017 is suspended pending hearing and final disposal of the appeal.
- (iv) The Applicant shall furnish his 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.
- (v) The Applicant shall report to the Faujdar Chawadi Police Station, Solapur on every first Monday of the

month till disposal of the Appeal.

- (vi) The Applicant shall not interfere with the victim in any manner.

(ANUJA PRABHUDESSAI, J.)