

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1216 OF 2017

AND

CRIMINAL APPLICATION NO.1217 OF 2017

IN

CRIMINAL APPEAL NO.723 OF 2017

GANESH HANUMANT KOLI

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Rahul Arote, Advocate for the Applicant.

Mr.Vinod Chate, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 20th SEPTEMBER 2017

P.C. :

1 These are applications for suspension of sentence and releasing the applicant / accused on bail during pendency of the appeal filed by him. The applicant / accused has been convicted of the offence punishable under Sections 8 and 10 of the Protection of Children from Sexual Offences Act (POCSO Act) as

well as under Section 354A(1)(i) of the Indian Penal Code (IPC). He has been sentenced to suffer rigorous imprisonment for 5 years apart from directing him to pay fine of Rs.1,000/- and in default, to undergo further simple imprisonment for 6 months. Lesser punishment is imposed on the applicant / accused for the offence punishable under Section 354A(1)(i) of the IPC and substantive sentences are directed to run concurrently.

2 Heard the learned advocate appearing for the applicant / accused. He argued that throughout pendency of the trial, the applicant / accused was on bail and he has not misused his liberty. It is further argued that short sentence of imprisonment is imposed on the applicant / accused and considering the allegations against him, he deserves bail.

3 The learned APP opposed the applications by contending that the offence alleged is serious and evidence adduced by the prosecution is clear and cogent.

4 I have carefully considered the rival submissions and also perused the impugned judgment and order as well as copies of deposition of witnesses examined by the prosecution.

5 The trial court found that the applicant / accused on 6th December 2014 had sexually harassed the minor female victim by his unwelcome and explicit sexual overtures and had committed sexual assault which is termed as “aggravated sexual assault” because the victim was below 12 years of age. Ultimately, he is sentenced to suffer rigorous for 5 years.

6 The record does not indicate that the applicant / accused has criminal antecedents. While on bail during trial, it is not seen that he has misused his liberty in any manner. Short sentence of 5 years has been imposed on the applicant / accused for offences proved against him and there is no likelihood of his appeal being taken up for final hearing in near future. Hence the applicant / accused deserves liberty and therefore the order :

ORDER

- i) The applications are allowed.
- ii) Substantive sentence imposed upon the applicant / accused is suspended and the applicant / accused is directed to be released on bail on his executing P.R. Bond in the sum of Rs.15,000/- and on furnishing surety in like amount.
- iii) As a condition of this order, the applicant / accused should not contact the minor female victim of the crime in question as well as her relatives in any manner and he should not commit any offence during pendency of the appeal.
- iv) The application stands disposed of accordingly.

(A. M. BADAR, J.)