

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1297 OF 2017
WITH
CRIMINAL APPLICATION NO.1298 OF 2017
IN
CRIMINAL APPEAL NO.765 OF 2017**

Mr.Prakash alias Bhavdya
Mama Govardhan Jogdand ... **Applicant**
V/s.
The State of Maharashtra ... **Respondent**

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Mr.V.V.Ugle, Advocate for the Applicant.

Mr.A.D.Kamkhedkar, APP for the Respondent/State.

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CORAM : A.M.BADAR J.

DATED : 29th September 2017.

P.C. :

1 These are applications for suspension of sentence and releasing the applicant on bail during pendency of the appeal filed by him. The applicant/accused has been convicted of the offence punishable under Section 354 of the Indian Penal Code as well as one under Section 7 read with Section 8 of the Protection of Children from Sexual Offences Act (hereinafter referred to as “POCSO” for the sake of brevity. He has been sentenced to suffer rigorous imprisonment of one year for the offence punishable under Section 354 of the IPC and rigorous imprisonment of three years for the offence punishable under Section 7 read with Section

8 of the POCSO apart from imposition of some fine. The substantive sentences are directed to run concurrently by the learned trial Court.

2 Heard the learned Advocate appearing for the applicant/accused, who argued that substantive sentence of imprisonment imposed on the applicant/accused has already been suspended by the learned trial Court and considering the short sentence imposed on the applicant, he is entitled for bail.

3 The learned Additional Public Prosecutor opposed the contention by submitting that the Order passed for suspension of sentence is not produced on record and the applicant is not undergoing jail sentence.

4 I do not find any substance in contention of the learned Additional Public Prosecutor because unless and until sentence imposed the sentence imposed on the applicant/accused is suspended by the learned trial Court, he would not have out of prison. At the time of pronouncing the Judgment, the applicant/accused would have taken in custody by the learned trial Court.

5 The substantive sentence of imprisonment running is only for three years and the same is suspended by the learned trial

Court. There is no possibility of hearing the appeal filed by the appellant in near future considering the pendency of appeals filed by before this Court. Therefore, the Order :

- (i) The applications are allowed.
- (ii) The substantive sentence of imprisonment imposed on the applicant is suspended and he is directed to be released on bail on his executing P.R. Bond in the sum of Rs.15,000/- with one surety in like amount.
- (iii) As a condition of this Order, the applicant should not contact the alleged victim of the crime in question as well as prosecution witnesses and her relatives in any manner and he should not repeat commission of similar offence in future.
- (iv) The applications are disposed of accordingly.

(A.M.BADAR J.)