

Sarnobat

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

**CRIMINAL APPLICATION NO. 1376 OF 2017
IN
CRIMINAL APPEAL NO. 802 OF 2017**

Ganesh Dnyandeo Kamble. .. Appellant.
Vs.
The State of Maharashtra. .. Respondents.

Mr. S. P. Rajepandhare Advocate for the Appellant.
Mr. S. V. Gavand, APP for the Respondent/State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 11th OCTOBER, 2017.

P. C. :

1. The applicant herein was an accused in Sessions Case No. 10 of 2017 on the file of the Additional Sessions Judge, Solapur. By this application, the applicant has sought suspension of execution of sentence imposed vide judgment dated 6th September, 2017 in the said Sessions Case and has prayed for release on bail.

2. Heard the learned counsel for the applicant and the learned APP for the 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 for the offence under section 376 of Indian Penal Code and and Section 4 of The Protection of Children From Sexual Offences Act and has been sentenced to undergo rigorous imprisonment for Seven years with fine of Rs.10,000/- in default to undergo simple imprisonment for One year. The applicant is also convicted for the offence under section 363 of Indian Penal Code and sentenced to undergo rigorous imprisonment for Seven years and fine of Rs.1,000/- in default to undergo further simple imprisonment for period of One year. The substantive sentences are to run concurrently.

4. The record reveals that the applicant and the victim girl were earlier having friendly relations. The victim being a minor, the applicant was prosecuted for offence under Section 376 of IPC.

5. The learned counsel for the applicant submitted that the victim has now attained the age of majority and the applicant

and the victim are already married and are living together. He has placed on record a copy of the marriage certificate. It shows that the marriage of the victim and the applicant herein was solemnized on 11th July, 2017 at Solapur.

6. The learned APP was directed to verify the genuineness of the marriage certificate and further to verify whether the applicant and the victim are in fact married and are living together.

7. The learned APP has submitted that the concerned Investigating Officer has verified the above facts and has submitted that the applicant and the victim are married and living together and that the certificate is genuine. The victim who is present before the Court has also placed on record an affidavit stating that she has already married the convict.

8. In the light of above facts and circumstances, in my considered view the execution of sentence can be suspended till final disposal of the appeal. Hence, the order :-

- (i) The Criminal Application No.1376 of 2017 is allowed.
- (ii) The execution of sentence imposed in Sessions Case No. 10 of 2017 vide judgment dated 6th September, 2017 is suspended till disposal of the appeal , subject to the applicant furnishing fresh bail bond of Rs.15,000/- (Rupees Fifteen Thousand) with one or two solvent sureties in the like amount, to the satisfaction of Additional Sessions Judge, Solapur.
- (iii) The applicant shall furnish his permanent as well as temporary address, if any, and his contact number and shall intimate change of address and contact number, if any, to the Investigating Officer, as well as to the concerned Court.
- (iv). All concerned to act on an authenticated copy of this order.

[ANUJA PRABHUDESSAI, J]