

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

**CRIMINAL APPLICATION NO. 1419 OF 2017
IN
CRIMINAL APPEAL NO.857 OF 2017**

Kiran Pandurang Pawar	Applicant
Versus	
The State of Maharashtra	Respondent

Mr. Umesh H. Pawar for the applicant.
Mr. S.V. Gavand, APP for the respondent/State.

***CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 12th OCTOBER, 2017***

P.C. :

1. The applicant herein was an accused in Sessions Case No. 51 of 2016 on the file of District Judge-1 & Addl. Sessions Judge, Islampur. By this application, the applicant herein has sought suspension of execution of substantive sentence imposed vide judgment dated 01st September, 2017 in the said 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 record and considered the submissions advanced by the learned Counsels for the respective parties.
3. The applicant herein was prosecuted for offences under Section 354, 376, 504 and 506 of the Indian Penal Code. By judgment dated 01st September, 2017, the applicant has been held guilty for offence

punishable under Section 354 of Indian Penal Code. He has been sentenced to suffer rigorous imprisonment for one year and also directed to pay fine of Rs.5,000/- in default to suffer further rigorous imprisonment for one month.

4. The case of prosecution in brief was that on 24th September, 2015, the accused had outraged the modesty of the complainant/victim and committed rape and further abused her and threatened to cause her death. Pursuant to the F.I.R. lodged by the complainant/victim, offence was registered which was subsequently investigated and charge sheet came to be filed. Upon committal of the case, the learned Additional Sessions Judge recorded evidence of the victim and the other witnesses. Upon considering the evidence, the learned Sessions Judge acquitted the accused of offences under Section 354, 376, 504 and 506 of Indian Penal Code and convicted him for the offence under Section 354 of Indian Penal Code and sentenced him as stated above.

5. The records reveal that the applicant has been sentenced to undergo short term imprisonment of one year. The appeal is of the year 2017 and is not likely to come up for final hearing in the next couple of years due to large pendency of old cases. Hence, rejection of the application will result in the applicant undergoing the sentence of imprisonment even before the appeal is heard on merits.

6. The applicant was on bail during the pendency of the Sessions Case No.51 of 2016. There is nothing on record to indicate that the applicant has violated the terms and conditions of the order.

7. Considering the aforesaid facts, as well as the nature of allegations levelled against the applicant, in my considered view, this is a fit case to suspend the execution of sentence pending the disposal of the appeal on merits. Hence, the order :-

- (i) The Criminal Application No.1419 of 2017 is allowed.
- (ii) The execution of sentence imposed in Sessions Case No.51 of 2016 vide judgment dated 01st September, 2017 is suspended till disposal of the appeal on merits, 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 District Judge-1 & Addl. Sessions Judge, Islampur.
- (iii). The applicant shall not interfere with the victim in any manner.
- (iv). 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.
- (v). All concerned to act on an authenticated copy of this order.

(SMT. ANUJA PRABHUDESSAI, J.)