

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

**CRIMINAL APPLICATION NO.1440 OF 2017
IN
CRIMINAL APPEAL NO.867 OF 2017**

Somling Ramu Naik ...Applicant

Versus

The State of Maharashtra ...Respondent

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Mr. Nagesh Chavan for the Applicant.

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

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED : 13th OCTOBER, 2017.

P.C.:-

This is an application for bail filed by the aforesaid Applicant for suspension of execution of sentence imposed by the Special Judge and Additional Sessions Judge-2, Sangli in Special Case (POCSO) No.131 of 2014. The Applicant herein has been convicted for offence punishable under Section 8 of the Protection of Children from Sexual Offences Act (POCSO) and sentenced to suffer rigorous imprisonment for four years and with a fine of Rs.5,000/- i/d. to suffer simple imprisonment for one month.

2. Heard Mr. Nagesh Chavan for the Applicant and Mr. Vinod

Chate, the learned APP for the Respondent -State.

3. The learned counsel for the Applicant has submitted that the learned Special Judge and Additional Sessions Judge-2, Sangli has not considered the plea of alibi taken by the Applicant. He has further submitted that the Applicant is falsely implicated due to previous enmity with one Basgonda Naik. He has submitted that the Applicant has four minor children and that he was on bail during pendency of the trial.

4. I have perused the records and considered the submissions advanced by the learned counsel for the Applicant and the learned APP for the Respondent-State. The records reveal that the victim in this crime is a girl of 14 years of age. There is evidence of victim on record, which prima facie indicates that the Applicant herein had sexually abused her. Prima facie there is no material on record to impeach the credibility of the victim. The plea of the alibi cannot be considered at this stage as the Doctor examined by the Applicant has categorically stated that the Applicant was not admitted in the hospital as on the relevant date. The fact that the Applicant was on bail during pendency is also not a ground to release the Applicant on bail after conviction.

Considering the nature of charge and the evidence in support thereof and particularly considering the fact that offence is against a girl child, I am not inclined to suspend the execution of sentence. Nevertheless, considering the grounds raised by the Applicant, hearing of the Appeal can be expedited.

5. The application is accordingly dismissed.

(ANUJA PRABHUDESSAI, J.)