

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

**CRIMINAL APPLICATION NO. 1441 OF 2017
IN
CRIMINAL APPEAL NO. 868 OF 2017**

Sagar alias Sidhdeswar Abhiman Dhobale	Applicant
Versus	
The State of Maharashtra	Respondent

Mr. Arjun Kode i/b. Mangesh M. Deshmukh for the applicant.
Mr. Prashant Jadhav, APP for the State.

***CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 20th NOVEMBER, 2017***

P.C. :

1. The applicant herein was an accused in Special Case (POCSO) No.57 of 2016 on the file of Additional Sessions Judge, Court Room No.4, Pune. By this application, the applicant herein has sought suspension of execution of substantive sentence imposed vide judgment dated 13th September, 2017 in the said case and has prayed for release on bail.

2. Heard Mr. Arjun Kode, learned counsel for the applicant and Mr. Prashant Jadhav, 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 was prosecuted in committing offences

punishable under Section 354-A of the Indian Penal Code and Section 7 r/w. Section 8 of The Protection of Children from Sexual Offences (POCSO) Act, 2012. Upon considering the evidence on record, the learned Additional Sessions Judge, Court Room No. 4, Pune has held the applicant guilty of both these offences and sentenced him to undergo maximum imprisonment of three years and to pay total fine of Rs.3,000/-. Mr. Arjun Kode, learned counsel for the applicant has submitted that the applicant has already deposited the fine amount.

4. The records reveal that the applicant has been sentenced to undergo short term imprisonment for the maximum period of three 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.

5. The applicant was on bail during the pendency of the Special Case (POCSO) No.57 of 2016. There is nothing on record to indicate that the applicant has violated the terms and conditions of the order.

6. 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 execution of substantive sentence pending the disposal of the appeal on merits. Hence, the order :-

- (i) Criminal Application No. 1441 of 2017 is allowed.
- (ii) The execution of substantive sentence imposed in Special Case (POCSO) No.57 of 2016 vide judgment dated 13th September, 2017 is suspended till the disposal of appeal on merits, subject to the applicant furnishing fresh bail bonds of Rs. 25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount, to the satisfaction of Additional Sessions Judge, Pune.
- (iii) The applicant shall not interfere with the victim girl in any manner.
- (iv) The applicant shall furnish his permanent as well as temporary address 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) The applicant shall be released from jail provided he is not in custody in any other crime or case.
- (vi) All concerned to act on an authenticated copy of this order.

(SMT. ANUJA PRABHUDESSAI, J.)