

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

**CRIMINAL APPLICATION NO.1499 OF 2017
IN
CRIMINAL APPEAL NO.899 OF 2017**

Viju Bhima Jadhav ...Applicant
Versus

The State of Maharashtra ...Respondent

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Mr. Gajendra K. Jadhav for the Applicant.
Mr. V.V. Gangurde, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 13th NOVEMBER, 2017.

P.C.:-

By this application the Applicant has sought suspension of execution of substantive sentence imposed vide judgment dated 28th September, 2017 passed by the designated Court under Protection of Children from Sexual Offences Act, 2012 for Greater Bombay in POCSO Case No.1137 of 2013.

2. Heard Mr. Gajendra Jadhav, learned counsel for the Applicant and Mr. V.V. Gangurde, learned APP for the Respondent -State.

3. Case of the prosecution in brief is that on 28.10.2013 the Applicant herein outraged modesty of the victim girl and committed sexual offence and further assaulted her by giving fist blow on her face. The Applicant was prosecuted for offences punishable under Sections 323, 354 (A) (1) (i) of the Indian Penal Code and Section 8 of Protection of Children from Sexual Offences Act, 2012 (for short 'POCSO Act'). By the impugned judgment the Applicant was held guilty of the said offences and has been sentenced to undergo maximum imprisonment of three years with fine of Rs.5,000/- i/d. to undergo rigorous imprisonment for further six months under Section 8 of the POCSO Act.

4. The learned counsel for the Applicant has submitted that the Applicant has already deposited the fine amount before the Special Court, Greater Bombay. It is seen that the Applicant was on bail during the pendency of trial and has not violated the terms and conditions of the bail.

5. By the impugned judgment, the Applicant has been sentenced to undergo a short term imprisonment for a period of three years. The Appeal is of the year 2017. Considering the large pendency

of the cases, the Appeal is not likely to come up for final hearing in the next couple of years. Rejecting the prayer for suspension of sentence, pending disposal of the Appeal, will result in the Applicant undergoing the entire term of imprisonment even before his Appeal is heard on merits. Considering the above facts and circumstances this is a fit case for suspension of execution of substantive sentence pending hearing and final disposal of the Appeal. Hence, following order is passed :-

- (i) The application is allowed;
- (ii) Execution of substantive sentence imposed on the Applicant vide judgment dated 28th September, 2017 in POCSO Case No.1137 of 2013 by the Designated Court under Protection of Children from Sexual Offences Act, 2012, for Greater Bombay, is suspended till the final disposal of the Appeal subject to the Applicant furnishing bail bonds of Rs.15,000/- (Rupees Fifteen Thousand only) with one surety to the like amount to the satisfaction of the Special Court, Greater Bombay;
- (iii) The Applicant shall furnish his contact number and permanent as well as local address, if any, and shall intimate change of address, if any, to the Investigating Officer, as well as to the concerned Court.

(iv) The Applicant shall not interfere with the victim in any manner.

(ANUJA PRABHUDESSAI, J.)