

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1521 OF 2017
IN
CRIMINAL APPEAL NO.907 OF 2017**

Uday Yashwant Nikam ...Applicant

Versus

The State of Maharashtra ...Respondent

.....

Mr. J. Shekhar i/b. M/s. J. Shekhar and Co. for the Applicant.

Mr. Prashant Jadhav, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 30th NOVEMBER, 2017.

P.C.:-

The Applicant herein who is the accused in Sessions Case No. 16 of 2016. He has been held guilty of offence under Sections 354, 452 and 506 of the IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012. Maximum sentence imposed on the Applicant is of four years with total fine of Rs.8,000/-. The Applicant has challenged the above said conviction and sentence in the appeal and by this application, the Applicant has sought suspension of execution of sentence pending hearing of the Appeal.

2. Heard Mr. J. Shekhar, the learned counsel for the Applicant and Mr. Prashant Jadhav, learned APP for the Respondent -State. Perused the records.

3. The case of the prosecution in brief is that on 4.11.2015 at about 5.30 p.m. the Applicant criminally trespassed in the house of the victim girl and that he outraged her modesty. The Applicant is also alleged to have criminally intimidated the victim girl. The FIR was registered against the Applicant on the basis of the complaint lodged by the victim girl. Upon completion of the investigation, charge sheet was filed and after considering the evidence on record, the learned Additional Sessions Judge, Islampur convicted and sentenced the Applicant as stated above.

4. The records prima facie reveal that there is a civil dispute between the Applicant and family members of the victim.

5. By the impugned judgment, the Applicant has been sentenced to undergo short term imprisonment for a period of four years. The Appeal is of the year 2017. Considering the large pendency 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. The Applicant was on bail during the pendency of trial and

there is nothing on record to indicate that he had violated the terms and conditions of the bail. Considering the above facts so also the nature of charge and evidence in support thereof, this is a fit case for suspension of execution of sentence pending hearing of the Appeal and to release the Applicant on bail. Hence, following order is passed:-

(I) Application is allowed.

(II) The execution of substantive sentence imposed on the Applicant vide judgment dated 6th October, 2017 in Sessions Case No.16 of 2016 by the learned Additional Sessions Judge, Islampur is hereby suspended pending hearing of the Appeal subject to the Applicant furnishing bail bonds of Rs.20,000/- with one or two sureties to the like amount to the satisfaction of Additional Sessions Judge, Islampur.

(III) The Applicant shall furnish his contact number as well as permanent and temporary address, if any, and shall intimate change of address, if any, to the Investigating Officer and to the concerned Court.

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

(ANUJA PRABHUDESSAI, J.)