

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

**CRIMINAL APPLICATION NO.1540 OF 2017
WITH
CRIMINAL APPLICATION NO.1541 OF 2017
IN
CRIMINAL APPEAL NO.921 OF 2017**

Mohammad Shabbir Khan ...Applicant

Versus

The State of Maharashtra ...Respondents

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Mr. Datta Mane for the Applicant.

Mr. P.H. Gaikwad-APP, APP for the Respondent-State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 16th NOVEMBER, 2017.

P.C.:-

By these applications the Applicant has sought suspension of execution of sentence imposed by judgment dated 11th October, 2017 in Special (POCSO) Case No.269 of 2016 and release on bail.

2. The Applicant was prosecuted for offences under Sections 354 A and 506 II of the IPC and Section 8 of the Protection of Children from Sexual Offences Act, 2012 (for short 'the POCSO Act'). By the impugned judgment dated 11th October, 2017 he has been acquitted of

offence under Section 506 II of the IPC and has been held guilty of offence under Section 354 A of the IPC and Section 8 of the POCSO Act.

3. The learned counsel for the Applicant submits that the Applicant was on bail during pendency of the trial and that he has not violated the terms and conditions of the bail. He has further submitted that the fine amount has already been deposited before the Special Court.

4. 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 and so also the nature of charge and evidence in support thereof, in my considered view this is a fit case for suspension of execution of substantive sentence and releasing the Applicant on bail pending hearing and final disposal of the Appeal. Hence, following order is passed :-

- (i) The applications are allowed;
- (ii) The execution of sentence imposed by judgment dated 11th October, 2017 in Special (POCSO) Case No.269 of 2016 is suspended pending hearing and final disposal of the Appeal and the Applicant is released on bail subject to his furnishing bail bonds of Rs.25,000/-(Rupees Twenty Five Thousand only) with one or two sureties to the like amount to the satisfaction of Special Court, Pune.
- (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.)