

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

**CRIMINAL APPLICATION NO. 1548 OF 2017
IN
CRIMINAL APPEAL NO. 927 OF 2017**

Santosh Ganpat Dalvi	Applicant
Versus	
The State of Maharashtra	Respondent

Mr. Ganesh K. Gole for the applicant.
Mr. M.G. Patil, 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 No. 128 of 2014 on the file of Additional Sessions Judge, Thane. By this application, the applicant herein has sought suspension of execution of substantive sentence imposed vide judgment dated 06th October, 2017 in the said case and has prayed for release on bail.

2. Heard Mr. Ganesh Gole, learned counsel for the applicant and Mr. M.G. Patil, 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 convicted for offences punishable under Section 354, 341, 323, 506 of Indian Penal Code and Section 7 r/w. Section 8 of The Protection of Children from Sexual Offences Act

(POCSO Act). The applicant has been sentenced to undergo maximum sentence of imprisonment for one year and to pay total fine of Rs.7,000/-. Mr. Ganesh Gole, learned counsel for the applicant submits that in the event the fine amount is not deposited, the applicant shall deposit the same within one week from the date of this order. Statement accepted.

4. The records reveal that the applicant has been sentenced to undergo short term imprisonment for the maximum period of one 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 No. 128 of 2014. 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. 1548 of 2017 is allowed.
- (ii) The execution of substantive sentence imposed in Special Case

No. 128 of 2014 vide judgment dated 06th October, 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, Thane.

(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.)