

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.1551 OF 2017
IN
CRIMINAL APPEAL NO.931 OF 2017**

Damodar Jagannath More ...Applicant

Versus

The State of Maharashtra ...Respondent

.....

Mr. Hrishikesh Chavan i/b. Mr. Kiran Mardhekar for the Applicant.

Mr. H.J. Dedhia, APP for the Respondent -State.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATED: 30th NOVEMBER, 2017.

P.C.:-

The Applicant herein was the accused in Special (Child) Case No.27 of 2017. By judgment dated 13th October, 2017 passed by the Additional Sessions Judge, Satara, he has been convicted for offences punishable under Section 7 r/w. 8 of the Protection of Children from Sexual Offences Act, 2012 and sentenced to undergo imprisonment for a period of three years and to pay compensation of Rs.5,000/- to the complainant i/d. to suffer SI for one month.

2. The Applicant has challenged the said conviction and sentence in the Appeal and sought suspension of execution of sentence and further to release him on bail.

3. Heard Mr. Hrishikesh Chavan, the learned counsel for the Applicant and Mr. H.J. Dedhia, learned APP for the Respondent -State. Perused the records.

4. The case of the prosecution in brief is that on 23rd May, 2014 at about 4.30 p.m. the Applicant took the minor girl to his house and sexually abused her. Crime was registered against the Applicant pursuant to the FIR lodged by PW-1, grand-mother of the victim. Upon completion of the investigation, charge sheet was filed and upon considering the evidence on record learned Special Judge convicted and sentenced the Applicant as stated above.

5. The learned counsel for the Applicant submits that since the Applicant was in jail since 24th May, 2017 he could not deposit Rs.5000/- compensation. He undertakes to deposit the same within seven days from the date on which this order is uploaded. Statement is accepted.

6. The Applicant is in custody since 24th May, 2017. Besides the sentence imposed against the Applicant is a short term

imprisonment of three 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.

7. Considering the above facts and considering the nature of offence, in my considered view this is a fit case for suspending the 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 13th October, 2017 in Spl.(Child) Case No.27 of 2017 by the learned Additional Sessions Judge, Satara 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, Satara.

(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.)