

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

**CRIMINAL APPLICATION NO. 1556 OF 2017
IN
CRIMINAL APPEAL NO. 938 OF 2017**

Raju Gulab KshirsagarApplicant
Versus
The State of MaharashtraRespondents

Mr. Aniket U. Nikam for the applicant.
Mr. S.R. Agarkar, APP for the State.

***CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 28th NOVEMBER, 2017***

P.C. :

1. The applicant herein was an accused in Sessions Case No.214 of 2016 on the file of Additional Sessions Judge, Pune. By this application, the applicant herein has sought suspension of execution of substantive sentence imposed vide judgment dated 01st November, 2017 in the said case and has prayed for release on bail.

2. Heard Mr. Aniket U. Nikam, learned counsel for the applicant and Mr. S.R. Agarkar, learned APP for the State. Perused the record and considered the submissions advanced by the learned Counsels for the respective parties.

3. The applicant was convicted for offence punishable under section 376 of the Indian Penal Code and sentenced to suffer rigorous

imprisonment for seven years and to pay fine of Rs.5000/- in default to undergo rigorous imprisonment for six months.

4. The case of the prosecution in brief is that the applicant had sexual relationship with the victim under the promise of marriage. The learned Sessions Judge, after considering the testimony of the victim and the other witnesses adduced by the prosecution, held the applicant guilty of offence under section 376 of the Indian Penal Code and sentenced him as stated above.

5. The record reveals that the victim and the applicant were employed in Idea Company and they were known to each other. The testimony of the victim *prima facie* reveals that she was in friendly relationship with the applicant and that they were having physical relationship with each other. The testimony of PW1 *prima facie* reveals that the applicant has refused to marry her and the same has resulted in filing of the first information report. *Prima facie*, the relationship appears to be consensual. Considering the facts and circumstances, this is a fit case for suspending the execution of substantive sentence pending hearing of the appeal on merits. Hence, the order :-

(i) The Criminal Application No.1556 of 2017 is allowed.

(ii) The execution of sentence imposed in Sessions Case No.214 of 2016 vide judgment dated 01st November, 2017 is suspended till disposal of the appeal on merits, subject to the applicant furnishing

fresh bail bond of Rs.50,000/- (Rupees Fifty Thousand) with one or two solvent sureties in the like amount, to the satisfaction of Additional Sessions Judge, Pune.

(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 to be released from jail provided he is not required in any other crime or case.

(SMT. ANUJA PRABHUDESSAI, J.)