

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

**CRIMINAL APPLICATION NO. 1578 OF 2017
WITH
CRIMINAL APPLICATION NO. 1579 OF 2017
IN
CRIMINAL APPEAL NO. 960 OF 2017**

Kantilal Gokaldas Detroja

....Applicant

Versus

Union Territory of Daman & Diu

....Respondent

Mr. Ashish S. Chavan for the applicant.

Mrs. Purnima H. Kantharia for respondent.

CORAM : SMT. ANUJA PRABHUDESSAI, J.

DATE : 28th NOVEMBER, 2017

P.C. :

1. The applicant herein was an accused in Sessions Case No.11 of 2016 on the file of Special Judge, Daman. By these applications, the applicant herein has sought suspension of execution of substantive sentence imposed vide judgment dated 20th September, 2017 in the said case and has prayed for release on bail.

2. Heard the learned counsel for the applicant and the learned APP for the State. Perused the record and considered the submissions advanced by the learned Counsels for the respective parties.

3. The applicant has been convicted for offence punishable under Section 354 and 354A(i) of the Indian Penal Code and sentenced to suffer rigorous imprisonment for one year each and to pay fine of Rs.500/- each in default to suffer rigorous imprisonment for fifteen days each. In addition, the applicant is also convicted for offence punishable under section 8 of Protection of Children from Sexual Offences (POCSO) Act, 2012 and sentenced to suffer rigorous imprisonment for three years and to pay fine of Rs.5,000/- in default to suffer rigorous imprisonment for one month. All the sentences are to run concurrently. Mr. Ashish Chavan, learned counsel for the applicant submits that the applicant has already deposited fine amount of Rs.5,500/-.

4. The records reveal that the applicant has been sentenced to undergo short term imprisonment of three years. 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 applications 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 Sessions Case No.11 of 2016. There is nothing on record to indicate that the applicant has violated the terms and conditions of the order.

6. Considering the aforesaid facts and the nature of the offence, in my considered view, this is a fit case to suspend the execution of

substantive sentence pending the disposal of the appeal on merits.
Hence, the order :-

- (i) The Criminal Application Nos.1578 and 1579 of 2017 are allowed.
- (ii) The execution of sentence imposed in Sessions Case No.11 of 2016 vide judgment dated 20th September, 2017 is suspended till disposal of the appeal on merits, subject to the applicant furnishing fresh bail bond of Rs.20,000/- (Rupees Twenty Thousand) with one or two solvent sureties in the like amount, to the satisfaction of Special Judge, Daman.
- (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.

(SMT. ANUJA PRABHUDESSAI, J.)