

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

**CRIMINAL APPLICATION NO. 1608 OF 2017
WITH
CRIMINAL APPLICATION NO. 1609 OF 2017
IN
CRIMINAL APPEAL NO. 977 OF 2017**

Nilesh Suresh BangurdeApplicant
Versus
The State of MaharashtraRespondent

Mr. Sushil Shukla i/b. Prakash P. Patange for the applicant.
Mr. H.J. Dedhia, APP for the State.

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

P.C. :

1. The applicant herein was an accused in Special Case No. 215 of 2015 (C.R.No.279 of 2015) on the file of Assistant Sessions Judge, Borivali Division, Dindoshi, Goregaon, Mumbai. By these applications, the applicant herein has sought suspension of execution of substantive sentence imposed vide judgment dated 09th October, 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. By judgment dated 09th October, 2017, the applicant herein was

convicted for offence punishable under section 354 of the Indian Penal Code and sentenced to suffer imprisonment for one year and to pay fine of Rs.1,000/- in default to undergo simple imprisonment for one month.

4. The case of the prosecution in brief is that on 06th June, 2015 at about 11.00 a.m., the applicant outraged the modesty of the victim girl and that he also committed sexual assault on the said minor victim girl. The learned Special Judge, after considering the evidence on record, had acquitted the applicant of offence under Section 8 of Protection of Children from Sexual Offences (POCSO) Act, 2012 and had convicted him of offence under Section 354 of the Indian Penal Code and sentenced him as stated above.

5. The records reveal that the applicant has been sentenced to undergo short term imprisonment 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 these applications will result in the applicant undergoing the sentence of imprisonment even before the appeal is heard on merits.

6. The applicant was on bail during the pendency of the Special Case No.215 of 2015. There is nothing on record to indicate that the applicant has violated the terms and conditions of the order.

7. Considering the aforesaid facts, as well as the nature of charge and evidence in support thereof, in my considered view, this is a fit

case to suspend the execution of sentence pending the disposal of the appeal on merits. Hence, the order :-

(i) The Criminal Applications Nos.1608 and 1609 of 2017 are allowed.

(ii) The execution of sentence imposed in Special Case No. 215 of 2015 vide judgment dated 09th October, 2017 is suspended till disposal of the appeal on merits, subject to the applicant furnishing fresh bail bonds of Rs.15,000/- (Rupees Fifteen Thousand) with one or two solvent sureties in the like amount, to the satisfaction of Assistant Sessions Judge, Borivali Division, Dindoshi, Goregaon, Mumbai

(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, if any, 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.)