

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

**CRIMINAL APPLICATION NO. 1639 OF 2017
WITH
CRIMINAL APPLICATION NO. 1640 OF 2017
IN
CRIMINAL APPEAL NO. 1000 OF 2017**

Yogesh Bhikaji BorilApplicant
Versus
The State of MaharashtraRespondent

Mr. Ajinkya Badar i/b. Pracheta Rathod for the applicant.
Mr. P.H. Gaikwad, APP for the State.

***CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATE : 08th DECEMBER, 2017***

P.C. :

1. The applicant herein was an accused in Sessions Case No.251 of 2016 on the file of Additional Sessions Judge-4, Nashik. By these applications, the applicant herein has sought suspension of execution of substantive sentence imposed vide judgment dated 16th November, 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 offences punishable under section 354 of the Indian Penal Code r/w. Section 12 of the Protection

of Children from Sexual Offences (POCSO) Act, 2012 and sentenced to suffer rigorous imprisonment for one year and six months and to pay fine of Rs.3,000/- in default to suffer rigorous imprisonment for one month. The applicant has been acquitted for the offence punishable under Section 376 r/w. 511 of the Indian Penal Code.

4. The records reveal that the applicant has been sentenced to undergo short term imprisonment of one year and six months. 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 Sessions Case No.251 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, 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.1639 & 1640 of 2017 are allowed.
- (ii) The execution of sentence imposed in Sessions Case No.251 of 2016 vide judgment dated 16th November, 2017 is suspended till disposal of the appeal on merits, subject to the applicant furnishing fresh bail bonds of Rs.25,000/- (Rupees Twenty Five Thousand) with

one or two solvent sureties in the like amount, to the satisfaction of Additional Sessions Judge-4, Nashik.

(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.)