

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.173 OF 2018

IN

CRIMINAL APPEAL NO.110 OF 2018

Aftab Dayan Shaikh ... **Applicant**
V/s.

The State of Maharashtra ... **Respondent**

.....

Mr.Dilip B. Shinde, Advocate for the Applicant.

Mr.Prashant Jadhav, APP for the Respondent/State.

....

CORAM : A.M.BADAR J.

DATED : 12th FEBRUARY 2018.

P.C. :

1 Leave to amend. Amendment be effected forthwith.

2 This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of appeal filed by him. The applicant/accused is convicted for the offences punishable under Section 354 of the Indian Penal Code as well as Section 8 of the Protection of Children from Sexual Offences Act, 2012 and he has been sentenced to suffer rigorous imprisonment for four years apart from payment of fine of Rs.10,000/- and in default to suffer simple imprisonment for three months.

3 Heard the learned Advocate appearing for the applicant/accused. He argued that though the alleged incident took place in the house of female child, which was inhabited by her father as well as two brothers, the prosecution has not examined any of them. The mother of the victim was not even present at the house when the incident allegedly took place, however, she is examined by the prosecution. The applicant is falsely implicated in the crime in question as the victim female child as well as her brother have not done homework.

4 The learned Additional Public Prosecutor opposed the application by contending that evidence of P.W.No.2 victim child is fully corroborated by other evidence on record.

5 I have carefully considered the rival submissions and also perused the impugned Judgment and Order of conviction and resultant sentence as well as copies of depositions of prosecution witnesses.

6 The applicant/accused was on bail during pendency of the trial and there is nothing on record to show that he has misused his liberty. Short sentence of imprisonment for four years is imposed on the applicant/accused. The appeal filed by him may not be heard within a period of four years considering the pendency of appeals of convict, who are undergoing jail sentence

right from the year 2008. In this view of the matter, the following order :

ORDER

- (i) The application is allowed in the following terms :
 - (a) The substantive sentence of imprisonment imposed on the applicant/accused is suspended and he is directed to be released on his executing P.R.Bond in the sum of Rs.15,000/- and on furnishing surety in the like amount
 - (b) As a condition of this Order, the applicant/accused should not contact the alleged minor victim of the crime in question as well as her relatives in any manner.
- (ii) The application is disposed of accordingly.

(A.M.BADAR J.)