

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1355 OF 2017

IN

CRIMINAL APPEAL NO.747 OF 2017

Mohammad Alam Mohammad Aslam Shaikh ... **Applicant**

V/s.

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

Ms.Sangita Dongre i/b. Mr.Dushyant Shantaram Pagare for the applicant.

Ms. Anamika Malhotra, APP for the respondent / State.

CORAM : A.M.BADAR J.

DATED : 8th MARCH 2018.

P.C. :

1. This is an application for suspension of sentence and releasing applicant/accused on bail during the pendency of the appeal filed by him.

2. Heard learned Advocate appearing for the applicant/accused. She argued that the applicant is convicted of the offence punishable under Section 354 of IPC as well as Section 8 of the Protection of Children from Sexual Offences Act, 2012 and short sentence is imposed on the applicant. The learned Advocate further argued that the applicant has actually undergone jail sentence of one year out of four years sentence

imposed on him and as his appeal may not be heard in near future, he deserves to be released on bail.

3. The learned APP opposed the application by contending that in past also the applicant is stated to have indulge in similar offence, therefore, he is not entitled for bail.

4. I have carefully considered the rival submissions and also perused the material placed on record including the impugned Judgment and Order of conviction and resultant sentence.

5. The offence of outraging the modesty of female child and sexual assault on her is held to be proved by the learned trial Court believing that evidence of victim as well as the history given by the medical Officer PW 6 Dr.Rajput. The evidence of Dr. Rajput shows that there was no injury caused to the victim in any manner.

6. Short sentence of four years of imprisonment is imposed on the applicant out of which he has already undergone sentence of about one year. So far as the past incident is concerned, the impugned Judgment and Order itself reveals that the said offence was compounded way back in the year 2002. This aspect can be taken care of by imposing appropriate condition. Therefore, the following order:

::ORDER::

- (i) The application is allowed.
- (ii) Substantive sentence of imprisonment imposed on the applicant/accused is suspended and he is directed to be released on bail on his executing P.R. Bond in the sum of Rs.15,000/- and on furnishing surety in the like amount.
- (iii) As a condition of this order, the applicant should not contact the alleged victim of crime in question as well as her relatives in any manner.
- (iv) He should not repeat the commission of similar offences in future.
- (v) Breach of these conditions shall entail the prosecution for applying for cancellation of bail.
- (vi) The application is disposed of.

(A.M.BADAR J.)