

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1693 OF 2017

IN

CRIMINAL APPEAL NO.1029 OF 2017

RAHUL RAFIQ MANDAL

)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA

)...RESPONDENT

Mr.Santosh Deshpande, Advocate for the Applicant.

Mr.S.V.Gavand, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 19th JANUARY 2018

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him. The applicant/accused along with two co-accused was charged for offences punishable under Sections 363, 366, 376D, 506 read with 34 of the Indian Penal Code and ultimately, he was convicted for offences punishable under Sections 363 and 366 of the Indian Penal Code. On both counts,

he has been sentenced and both sentences are directed to run concurrently. The maximum sentence imposed on him is for the offence punishable under Section 366 read with 34 of the Indian Penal Code and the same is for rigorous imprisonment for 4 years, apart from direction to pay a fine of Rs.2,000/- on that count.

2 I have heard the learned Advocate appearing for the applicant/accused. He argued that short sentence of imprisonment is imposed on the applicant/accused and he has been acquitted of the major offence alleged against him. The appeal filed by him is not likely to be heard in near future, and therefore, after conclusion of trial, the applicant/accused is entitled for bail. The learned Advocate further argued that the applicant/accused has completed sentence of more than 3 years as of now.

3 Shri S.V.Gavand, the learned APP, opposed the application by contending that the offence alleged is proved against the applicant/accused.

4 I have carefully considered the rival submissions and also perused the copies of deposition of prosecution witnesses as well as the impugned judgment and order. It is seen that the applicant/accused is in custody for more than three years and maximum sentence of imprisonment imposed on him is for four years. Considering the pendency of jail appeal before this court, the appeal filed by the applicant/accused may not be heard within a period of one year. Therefore, the applicant/accused deserves to be released on bail. As such, the order :

ORDER

- i) The application is allowed.
- ii) Substantive sentence of imprisonment imposed on the applicant/accused is suspended and the applicant/accused 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 like amount.
- iii) As a condition of this order, the applicant/accused should not contact the prosecutrix or prosecution witnesses in any manner during pendency of the appeal and he should not repeat commission of similar offence in future.

iv) The application is disposed of.

(A. M. BADAR, J.)