

Dond

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

**CRIMINAL APPLICATION NO.1736 OF 2017
IN
CRIMINAL APPEAL NO. 593 OF 2016**

Dattaray Ravlebua Shingote

..Applicant

Vs

The State of Maharashtra

..Respondent

Ms. Nagma Tondon for applicant.

Mr. V.V. Ganrude, APP for State.

CORAM : A.S.GADKARI, J.

DATE : 5th APRIL 2018.

P.C.:

1] This is an application for suspension of sentence and for releasing the applicant on bail.

2] By the Judgment and Order dated 23rd August 2016 passed by the Special Judge (under POCSO Act), Khed-Rajgurnagar, District-Pune in Special Case (POCSO) No.45 of 2014, the applicant has been convicted under Section 376 of the Indian Penal Code and under Sections 4, 6, 8 and 10 of the Protection of Children From Sexual Offences Act and sentenced to suffer rigorous imprisonment for ten years on each count and to pay a total fine of Rs.11,000/-. By the said Judgment and Order, the Trial Court has directed that the substantive sentences to run concurrently.

3] Heard the learned Counsel for the applicant and the learned APP. Perused the record,

4] The Medical Officer has deposed that, on clinical examination he found that there was no penetrative sexual vaginal intercourse, but attempt of rape cannot be ruled out. It prima facie appears that, the applicant attempted to commit rape upon the prosecutrix. The learned Counsel for the applicant submitted that, the applicant is in jail for about three years and nine months. She further submitted that, the applicant will deposit the fine amount in the Registry of the Trial Court if not already deposited before his actual release from jail.

5] In view of the above and as the possibility of appeal being heard on merits in near future is remote, I am inclined to release applicant on bail.

Hence the following Order:

(i) During the pendency of the appeal, the substantive sentence imposed upon the applicant is suspended.

(ii) During the pendency of the appeal, the applicant be released on bail on his furnishing PR bond in the sum of Rs.25,000/- with one or two solvent local sureties in the like amount.

(iii) Before his actual release from jail, the applicant shall deposit the fine amount in the Registry of the Trial Court and to produce copy of the receipt of payment before the the Jail Authority.

(iv) After his release from jail and during the pendency of appeal the applicant shall attend the Trial Court on every alternate Monday of the month between 11.00 a.m to 2.00 p.m. and mark his presence.

(v) Any two consecutive defaults shall attract the provisions of cancellation of bail.

6] Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)