

Anand

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

**CRIMINAL APPLICATION NO. 1881 OF 2018
WITH
CRIMINAL APPLICATION NO. 1882 OF 2018
IN
CRIMINAL APPEAL NO. 1392 OF 2018**

Swapnil Dilip Bhumkar .Applicant

Vs.

The State of Maharashtra .Respondent

Mr. A. S. Jondhale, Mr. K. A. Jondhale, Mr. A. S. Jondhale i/b.
Mr. S. B. Sakat, Advocate, for the Applicant
Mr. S. V. Gavand, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 22.04.2019

P.C.

. Heard learned counsel for the parties.

2. By these Applications, the Applicant seeks suspension of his sentence and enlargement on bail pending the hearing and final disposal of his Appeal.

3. Learned counsel for the Applicant submits that the

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Applicant is innocent and has been wrongly arrested in the said case. He submits that the evidence of the victim boy aged 11 years also shows that although he was sexually abused, it was not the Applicant, who was responsible for the said act. He further submits that even the Complainant i. e. PW.1 – mother of the victim boy has turned hostile and has not identified the Applicant. He states that the Applicant has no antecedents.

4. Learned APP does not dispute the aforesaid evidence that has come on record.

5. Perused the papers including the evidence of the Complainant, victim boy and the medical evidence. It is not in dispute that PW.2 – victim boy was taken by some person and was sexually abused. The medical evidence corroborates the happening of sexual abuse on the victim boy. However, PW.2 – victim boy in his evidence has stated that he can identify the person who did bad acts with him, however, he has categorically deposed before this Court that the Applicant is not the person, who did the bad act with him.

6. Considering the evidence on record, the Applications are allowed. The Applicant's sentence is suspended and he is enlarged on bail on the following terms & conditions :-

O R D E R

(i) The Applicant be enlarged on bail on his furnishing P. R. Bond in the sum of **Rs. 25,000/-** with one or more local sureties in the like amount;

(ii) The Applicant shall report to the Learned Sessions Judge, Greater Mumbai **once in three months** on the date assigned by the Learned Sessions Judge. Upon failure to attend any two consecutive dates, the Learned Sessions Judge, Greater Mumbai shall make report to the High Court and the prosecution would be at liberty to file an Application seeking cancellation of bail;

(iii) The Applicant shall keep the trial Court informed of his current address and mobile number and / or change of residence or mobile details, if any, from time to time;

(iv) The Applicant shall not contact or attempt to influence the Complainant or the prosecution witnesses or any person

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concerned with the case.

7. The Applications are, accordingly, disposed of.

All concerned to act on the authenticated copy of this
order.

(REVATI MOHITE DERE, J.)