

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.2002 OF 2018

IN

CRIMINAL APPEAL NO.714 OF 2017

Mohd. Juhur Mohd. Aarif Shaikh

...Applicant

V/s.

The State of Maharashtra

...Respondent

Mr. Asif Nawvi a/w. Mr. Yakub Shaikh, Advocate for the Applicant.

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

CORAM : A.M.BADAR J.

DATED : 1st FEBRUARY 2019

P.C. :

1. This is an application for suspension of sentence and releasing the applicant/accused No.1 on bail during pendency of the appeal filed by him.

2. The applicant/accused No.1 is convicted for the offence punishable under Section 4 read with Section 18 of The Protection of Children from Sexual Offences Act, 2012 and he is sentenced to

suffer rigorous imprisonment for seven years apart from imposition of fine of Rs.2,000/- and default sentence of simple imprisonment for three months.

3. Heard the learned Counsel appearing for the applicant/accused No.1. He argued that evidence adduced by the prosecution is contradictory and inconsistent. For that purpose, he drew my attention to the evidence of prosecution witnesses. My attention is drawn to evidence of alleged victims of the crime in question to demonstrate that they are stating different places as scene of offence. One is stating that they used to sleep at the mezzanine floor, whereas the another had stated that the victim/PW1 was sleeping at the ground floor. It is further argued that statement under Section 164 of the Code of Criminal Procedure are not signed statement and they are not exhibited.

4. The learned APP opposed the application by contending that considering nature of the crime, the applicant/accused No.1 is not entitled for bail.

5. I have considered the submissions so advanced and perused

the material placed on record.

6. At this stage, meticulous appreciation of evidence is not warranted. Broader probabilities of case of prosecution needs to be examined even if half of the sentence is undergone. In the case in hand, allegations which are held to be proved against the applicant/accused No.1 are to the effect of molestation of his sister. Evidence of the alleged victims of the crime in question is corroborated by the medical evidence adduced by the prosecution.

7. In this view of the matter, no case for grant of bail is made out. Hence, the Order.

ORDER

- (i) The application is rejected.
- (ii) Hearing of the appeal is expedited.
- (iii) Parties are at liberty to mention the appeal for final hearing as soon as it is ripe for final hearing.
- iv) The application is disposed of.

(A.M.BADAR J.)