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IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.605 OF 2021  
IN  
CRIMINAL APPEAL NO.116 OF 2021

Somnath s/o Ganesh Satpute = APPLICANT

VERSUS

The State of Maharashtra = RESPONDENT/S

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Mr.PN Muley,Advocate for Applicant/s;

Mr.MM Nerlikar,APP for Respondent-State.

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CORAM : SMT.VIBHA KANKANWADI,J.

DATE : 24<sup>th</sup> March, 2021.

PER COURT :-

1. Heard learned Advocate and learned APP appearing for respective parties.

2. In this Criminal Application, the applicant, who the original accused, prays for suspension of substantive sentences and releasing him on bail during pendency and final hearing of Criminal Appeal No.116/2021.

3. The applicant is the original accused in Special Case (Ch.) No.74/2016 who has been convicted by learned Extra Jt. District Judge and Judge, Special Court (POCSO) Jalna,vide judgment and order dated 8.2.2021 The applicant has been convicted and sentenced, thus, -

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a) For offence under section 354-D(i) of IPC to suffer R.I. for two years and to pay fine of Rs. 1,000/-, I.D., R.I. for three months;

b) For offence under Section 7 r/w Section 8 of POCSO Act, to suffer R.I. for three years and to pay fine of Rs. 1,000/-, I.D., R.I. for three months;

c) For offence under Section 11 r/w 12 of POCSO Act, to suffer R.I. for three years and to pay fine of Rs. 1,000/-, I.D., R.I. for three months.

. All the sentences are ordered to run concurrently.

4. It is vehemently submitted on behalf of the applicant that the learned Trial Court failed to consider and appreciate the factual and legal aspect of the matter. Prosecution failed to prove the charge against the applicant. The depositions of the witnesses are full of contradictions and omissions and they are not reliable witnesses. The victim girl does not inspire confidence to base the conviction of the applicant. The prosecution has not brought the particulars regarding the offence. The applicant is a student of B.Sc. The applicant has also deposited the fine amount in the trial court and he was on bail during during and has not misused the liberty. After pronouncement of the judgment, the trial court suspended the sentence of the applicant and he was on released on bail.

5. Per contra, learned APP vehemently resisted the application and supported the reasons assigned by the learned Sessions Judge while convicting and imposing the sentences against the applicant. The learned Sessions Judge has properly scanned the evidence brought on record. It is, therefore, submitted that the application being sans merit, deserves to be dismissed and it be dismissed accordingly.

6. As it appears from the impugned judgment of the learned Sessions Judge, particularly the sentences, that have been awarded against the applicant for several offences, are the short-term sentences. In view of the decision in the case of Kiran Kumar Vs. State of M.P. - (2001) 9 SCC 211, benefit will have to be extended to the applicant-appellant when he has demonstrated that the material and significant points raised by him in the appeal are required to be considered at the time of final hearing of the appeal. Further, the applicant was on bail throughout the trial, has not misused his liberty and he had also deposited the fine amount. In view of the matter, it can be said that a case is definitely made out for releasing the applicant on bail by suspending the substantive sentence during pendency and final disposal of the appeal. Hence, following order,-

**ORDER**

- i. The Criminal Application stands

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allowed.

ii. The substantive sentence imposed on the applicant by learned learned Extra Jt. District Judge and Judge, Special Court (POCSO) Jalna, vide judgment and order dated 8.2.2021 in Special Case (Ch.)No.74/2016, is hereby suspended till hearing and final disposal of the appeal.

iii. The applicant be released on executing PR and SB of Rs.15,000/ (Rupees fifteen thousand) each.

iv. The applicant shall not commit any criminal activity.

v. The applicant shall remain present before the learned Trial Judge once in six months, till final hearing and disposal of the appeal, commencing from the date he tenders bail papers and, thereafter, the Trial Judge to fix dates for their subsequent appearances.

vi. In case of two consecutive defaults on the part of the applicant to remain present before the Trial Court, the Trial Court to inform this Court about the same and in that eventuality, the prosecution would be at liberty to file an application for cancellation of

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the bail granted to the applicant.

vii. Bail before the Trial Court.

**(SMT. VIBHA KANKANWADI)**  
**JUDGE**

BDV