

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

**INTERIM APPLICATION NO.158 OF 2022
IN
CRIMINAL APPEAL NO.899 OF 2017**

Viju Bhima Jadhav .. Applicant/ Appellant
Versus
State of Maharashtra and Anr. .. Respondents

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Mr.Gajendra K. Jadhav, Advocate for the Applicant/Appellant.

Mr.S.H. Yadav, APP for the Respondent – State.

Mr.Vishal Kanade a/w. Tanaya Patankar, Advocate for Respondent No.2.

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CORAM : PRAKASH D. NAIK, J.

DATED : JANUARY 18, 2022.

P.C. :

This is an application for recalling the order dated 2nd December, 2021, passed by this Court in Criminal Appeal No.899 of 2017, cancelling bail granted to the applicant/appellant and issuing Non Bailable Warrant against him.

2 The applicant/appellant has been convicted for the offence under the provisions of POCSO Act. By order dated 13th November, 2017, the sentence of imprisonment was suspended and the applicant/appellant was directed to be released on bail.

3 The applicant had not furnished the surety in accordance with the order dated 13th November, 2017. Notice was issued to him, but, the same could not be served upon him.

4 Learned advocate for the applicant/appellant submitted that the requisite application and the documents were furnished before the trial Court for executing surety in accordance with order dated 13th November, 2017. However, inadvertently, the surety bond was not executed. Within short span of time, the surety bond would be furnished.

5 Learned APP submitted that the sentence was suspended vide order dated 13th November, 2017. Attempts were made to search the applicant/appellant. He was not found.

6 Learned counsel for respondent no.2/original complainant appointed through legal aid submitted that the applicant/appellant ought to have complied the order dated 13th November, 2017. The applicant/appellant has been convicted for the offence under the provisions of POCSO Act.

7 The appeal has been admitted by this Court and it is pending for final hearing. For want of submission of bond in accordance with order dated 13th November, 2017, this Court had cancelled the bail bond vide order dated 2nd December, 2021. Considering the submissions of learned counsel for the applicant/appellant, one opportunity could be given to the applicant/appellant to the execute bail bond.

8 In view of the above, I pass the following order:

:: ORDER ::

- (i) Interim Application No.158 of 2022, is allowed;
- (ii) The order dated 2nd December, 2021, is recalled.
- (iii) The order dated 13th November, 2017, is restored;
- (iv) Applicant shall furnish the bond in accordance with order dated 13th November, 2017, within a period of three weeks from today, subject to payment of costs of Rs.10,000/-. The costs shall be paid to the High Court Legal Aid Service Committee, within a period of three weeks from today;

- (v) Interim Application No.158 of 2022, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)