

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY.
BENCH AT AURANGABAD.
Criminal Appellate Jurisdiction.**

CRIMINAL APPLICATION NO.1596 OF 2015.

IN

CRIMINAL APPEAL NO.297 OF 2015.

PRASHANT S/O SURESH SHEP

Versus

THE STATE Of MAHARASHTRA.

Appearance =>

Mr. Shivprasad G. Jadhavar, Advocate for the Applicant.

Mr. A.S. Shinde, Additional Public Prosecutor for the State of Maharashtra.

CORAM : V.M. Deshpande, J.

DATE : 30th March, 2015.

Per Court :-

By the present Application, the applicant is seeking suspension of his jail sentence as imposed on him by the learned Additional Sessions Judge, Ambajogai, vide his Judgment and Order dated 18th March, 2015 passed in Sessions Case No.25 Of 2014, by which the Applicant was found guilty for the offence punishable under Section 363 of the Indian Penal Code and was sentenced to suffer Rigorous Imprisonment for five years and to pay fine of Rs.2000/- and in default of payment of fine, he was directed to suffer Simple Imprisonment for three months. Further he was held guilty for

the offence punishable under Section 366 of the Indian Penal Code and was sentenced to suffer Rigorous Imprisonment for seven years and to pay fine of Rs.3000/- and in default of payment of fine, to suffer Simple Imprisonment for three months.

[2] From the said Judgment and Order, it is clear that, in so far as age of the prosecutrix is concerned, the prosecution has relied upon Exhibit – 28 however, primary record for determining the age is not available on record.

[3] Further the learned Judge of court below has observed that according to the prosecution since last two years, present applicant was insisting the prosecutrix that she should marry with him however, in that respect, no First Information Report was lodged against the Applicant.

[4] As per prosecution story, age of the prosecutrix is 16 years at the time of incident. Thus on the date of incident, she was at the verge of attaining the age of majority. The Applicant was on bail, throughout the trial and no point of time, he misused the liberty granted to him.

[5] This court is taking final hearing of Criminal Appeals for the year 2000 and onwards, therefore, in the near future, the final hearing of present Appeal will not be possible.

[6] Looking to the nature of evidence adduced by the prosecution, this court is of view that, during pendency of present

Criminal Appeal, substantive jail sentence as imposed upon the present Applicant can be suspended and he can be released on bail. Hence, I pass the following order :-

ORDER

- (i) Criminal Application No.1596 Of 2015 is allowed.
- (ii) Substantive jail sentence imposed upon the Applicant, by the learned Additional Sessions Judge, Ambajogai, vide his Judgment and Order dated 18th March, 2015 passed in Sessions Case No.25 Of 2014, for the offences punishable under Section.s. 363 and 366 of the Indian Penal Code is suspended during pendency of Criminal Appeal No.297/2015.
- (iii) The Applicant – Appellant shall be released on bail on he executing PR Bond of Rs.10,000/- (Rs.Ten Thousand) with two solvent sureties in the like amount.
- (iv) Bail before Trial Court.
- (v) The Applicant-Appellant shall remain present personally at the time of final hearing of Criminal Appeal No.297/2015.
- (vi) With this Criminal Application is disposed of.

(V.M. DESHPANDE, J.)