

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

**CRIMINAL APPLICATION NO.4519 OF 2015**  
**IN**  
**CRIMINAL APPEAL NO.672 OF 2015**

Indal Dhansing Jadhav,  
Age - 20 years, occ.Service,  
r/o. Godhan-Tanda,  
Taluka Himayatnagar,  
Dist. Nanded ..Applicant

Versus

The State of Maharashtra ..Respondent

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Mr.S.J.Salunke, advocate for applicant

Mr.P.N.Muley, APP for respondent no.1 - State

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**CORAM : M.T. JOSHI, J.**

**DATE : SEPTEMBER 23, 2015**

**PER COURT :**

Heard both sides. Perused record and the  
papers called.

2] Present applicant/appellant has been convicted  
by learned Addl. Sessions Judge, Bhokar in  
Sessions Case No.4 of 2012 for the offence  
punishable under Section 376 of Indian Penal Code,

directing him to suffer rigorous imprisonment for ten years and to pay fine of Rs.20,000/-. By present application, the applicant prays for suspension of the substantive sentences during pendency of the appeal.

3] The prosecution case, in short, is that on 5th March, 2011, present applicant/appellant has committed forcible sexual intercourse with thirteen years old prosecutrix in a Nala in the field at about 2:00 p.m. The prosecutrix as well as the Medical Officer and other peripheral witnesses were examined by learned Addl. Sessions Judge.

4] Learned counsel for the applicant submits that the FIR at Exhibit 26 filed by the prosecutrix i.e. PW 2, would show that the allegations were made only of outraging modesty of the prosecutrix. On the next day i.e. on 6th March, 2011, a

supplementary statement was recorded whereunder, she has, allegedly, stated that in fact, present applicant/appellant has committed forcible sexual intercourse with her at the said place. However, due to modesty, she disclosed to the passers-by, who had rushed towards her, that only sexual advancements were made. Therefore, the complaint in that direction was filed.

5] Learned counsel for the applicant points towards the FIR wherein, the prosecutrix narrated that the incident was disclosed to her father and thereafter, she along with her father reached the police station and filed the complaint.

6] Learned counsel further points towards the medical evidence. He submits that PW 7 - Dr. Smita Pedgaonkar, Medical Officer, did not find any external injuries on the body of the prosecutrix and it was not explained as to whether, rupture of

hymen was fresh or old. He submits that though it is alleged that the incident has occurred at a Nala i.e. rough surface, the Medical Officer did not find any injury on any part of body of the prosecutrix. Further, there is no corroborative evidence from the clothes, as is revealed from the C.A. certificate at Exhibit 48.

7] Learned counsel for the applicant submits that subsequently, the fine amount as well as the compensation amount were deposited by the applicant. He files on record a photocopy to that effect. The photocopy is accepted on record and marked as "X" for the purpose of identification.

8] On the other hand, learned A.P.P. submitted that learned Addl. Sessions Judge has found that the case is proved beyond the reasonable doubt and rigorous imprisonment for ten years has been awarded. In the circumstances, he submits that

there no exceptional circumstance for releasing the applicant on bail.

9] Considering the overall material on record, without making any comment on merit of the case, since hearing of the appeal may take its own time, in my view, the substantive sentence of the applicant can be suspended.

10] In the result, during pendency of the appeal, the substantive sentence is hereby suspended. The applicant/appellant be released on bail upon his executing P.R. bond in the sum of Rs.20,000/- (Rs.Twenty Thousand) and also upon furnishing surety in the like amount.

11] The application is allowed and disposed of accordingly.

**[M.T. JOSHI, J.]**

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**PER COURT :**

Heard.

2] **Admit.** Learned A.P.P. waives notice for  
respondent no.1 - State upon admission of the  
appeal.

3] Printing of paper book is dispensed with.

**[M.T. JOSHI, J.]**

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