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

CRIMINAL APPLICATION NO.290 OF 2015
IN
CRIMINAL APPEAL NO.295 OF 2015
WITH
CRIMINAL APPEAL (ST) NO.582 OF 2015
[THROUGH JAIL]

Vikram Alias Vicky H. Babar ...Applicant/Appellant
V/s.
The State of Maharashtra ...Respondent

Mr.Shashikant Chaudhari a/w. Mr.Nilesh Tank a/w. Mr.V.G.Indrale i/by M/s.Chaudhari & Associates, for the applicant-appellant.
Mrs.P.P. Bhosale, APP for the respondent-State.

CORAM : A.R. JOSHI, J.
DATE : 06TH AUGUST 2015

P.C.:

1. Heard learned counsel for the applicant in this application for bail and also heard learned APP for the State. The appeal is already admitted.

2. The applicant is convicted for the offence punishable under section 363 and 376 of Indian Penal Code and sentenced to suffer RI for 3 years and 7 years respectively.

3. The facts of the present case are peculiar in nature inasmuch as the victim prosecutrix girl is aged about 17 years or so. She is student of 10th standard. Had love affair with the present applicant-appellant who was also student of 10th standard studying in the same school. Out of that love affair the prosecutrix eloped from her house and accompanied the applicant-appellant and this happened on 27th June 2012. Initially, missing complaint was lodged with the police but without any trace of the prosecurix and the present applicant-appellant. Subsequently, the whereabouts of the couple were found on or about 24th August 2012 and the couple was arrested by the police and was brought to the place of the residence of the complainant, who is mother of the victim. Even that time no offence was registered against the present applicant-appellant and infact no steps were taken by the parents of the victim girl, apparently, with a view that there should not be dis-repute in the community. Thereafter, the prosecutrix girl remained with her parents for about a month or so. However, again she went missing from 16th October 2012. According to the prosecutrix

when she gave her evidence subsequently before the trial Court, she stated that in the intervening period she was staying with her parents and the present applicant-appellant was visiting her and was giving threats and was insisting her to contact him on telephone. According to prosecutrix her younger sister P.W.No.5 was the intermediary and she was asked by the present applicant-appellant by giving a chit of paper, asking the prosecutrix to call him. Though it was such evidence of P.W.No.2 the prosecutrix, the substantive evidence of P.W.No.5 do not mention so and what she mentioned is again missing of her elder sister from 16th October 2012. Apparently this leeds to the conclusion that the prosecutrix of her own wish doing left the house and accompanied the applicant again. Thereafter, both stayed at various places in rented rooms as husband and wife and had sexual intercourse on many occasions. According to the prosecutrix it was so apparently done on the assurance given by the applicant-appellant to marry with her. Thereafter till February 2013 there was no intimation to the parents of the prosecutrix and then on 14th February 2013 there was a telephonic talk between the complainant i.e. mother

of the prosecutrix with the prosecutrix. After such telephonic talk on the next day i.e. on 14th February 2013 the FIR was lodged by the mother of the prosecutrix alleging the kidnapping and rape committed by the applicant-appellant with respect to their daughter i.e. prosecutrix. Still thereafter it so happened that the couple stayed together and only on 29th April 2013 the prosecutrix came to the place of her parents and then her statement was recorded. Considering this factual position in the opinion of this Court this is a matter in which the present applicant-appellant can be released on bail during the pendency of the appeal, as there are no immediate prospects of taking up the matter for final adjudication of the appeal. As such the present application is allowed.

4. The applicant-appellant be released on PR bond in the sum of Rs.20,000/- (Twenty Thousand) with one or two sureties in like amount. The bail procedure to be taken before the trial Court.

5. The bail application is accordingly disposed of.

6. Apparently in this matter there is separate appeal preferred by the applicant-appellant through jail and which is registered by the office on stamp number 582 of 2015. In fact this jail appeal is also to be taken along with the appeal no.295 of 2015.

(A.R. JOSHI, J.)