

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

rpa

CRIMINAL APPLICATION NO.10 OF 2015

Machindra Nagnath Kamble

.. Applicant

Vs.

The State of Maharashtra

.. Respondent

....

Mr.P.B. Naiknaware, Advocate for the Applicant.

Mr.Ajay Patil, A.P.P. for Respondent – State.

....

CORAM : M. L. TAHALIYANI, J.

DATED : JANUARY 28, 2015.

P.C. :

Heard the learned counsel Mr.Naiknaware for the applicant and the learned Additional Public Prosecutor Mr. Patil for the respondent – State of Maharashtra. The applicant has been convicted by the learned Judicial Magistrate First Class, Ghodnadi punishable under Sections 377 and 294 of the Indian Penal Code and is sentenced to suffer R.I. for two years and to pay a fine of Rs.2000/- (Rupees Two Thousand) in default to suffer S.I.for one month. His Appeal has been dismissed by the Sessions Court vide order in criminal Appeal No.87 of 2011.

2 The conviction of the applicant is based mainly on the evidence of P.W.2/victim of the offence. I have gone through the evidence, copy of which was produced before me by the learned counsel Mr. Naiknaware. In my opinion, the evidence of P.W.1

requires close scrutiny in view of the fact that there is no medical certificate. Medical officer has not been examined as a prosecution witness. Investigating officer has also not been examined. The other boys who were studying with the P.W.2 and who were cited as witnesses have also not been examined in the trial Court.

3 For all these reasons, in my opinion, the applicant deserves to be released on bail during the pendency of this Revision Application.

4 The applicant be released on bail in the sum of Rs.25,000/- (Rupees Twenty Five Thousand) with one solvent surety in the like amount or cash deposit of Rs.25,000/- (Rupees Twenty Five Thousand) in lieu of surety of Rs.25,000/- (Rupees Twenty Five Thousand).

5 Substantive sentences imposed upon the applicant shall remain suspended during the pendency of the Revision Application.

6 The Criminal Application is disposed of.

(JUDGE)