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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 511 of 2015
IN
CRIMINAL APPEAL No.485 of 2015.

Arif Rais Ansari	..Applicant/Appellant.
Vs	
State of Maharashtra	..Respondent.

Mrs Anjali Patil, Advocate for the Applicant.
Mr A. R. Patil, APP for the State.

CORAM : A.R.JOSHI,J

DATE : 24th JUNE, 2015

PC. :

- 1) *Appeal is already admitted.*
- 2) Heard learned counsel for the applicant on the application for bail during the pendency of the appeal. Also heard the learned APP for the State.
- 3) The applicant/appellant is convicted for the offence punishable under Section 4 of the Protection of Children from Sexual Offences Act, 2012 and sections 363 and 366-A of IPC. The punishment of minimum seven years is awarded for the offence punishable under section 4 of the Protection of Children from Sexual Offences Act. During the trial, reportedly, the applicant had not applied for bail and as such he was in custody from the date of his arrest i.e. 10th March, 2013. The incident of sexual assault and the sexual inter-

course on the prosecutrix PW 3 occurred on 6th February, 2013 at one hotel. But the FIR was lodged by the mother of the girl on 10th March, 2013 i.e. after more than one month four days. In between also, according to the prosecutrix, there was sexual assault and sexual inter-course on 2nd March, 2013 but there is nothing on record to that effect except that, it occurred at the house of the prosecutrix. It is admitted position that though according to the case of the prosecution the incident of 6.2.2013 occurred in the hotel at Khar area there is no evidence to show that a room was booked by the present applicant on that day and the applicant and the girl had attended said hotel room for a particular hours of the day. It is also brought on record that on scolding by her mother the prosecutrix has narrated her events and this was done at the behest of one another boy with whom the mother of the prosecutrix was desirous of getting the prosecutrix married.

4) The major discrepancy in the evidence of the prosecutrix is brought to the notice of this Court to the effect that the entire episode as to the things happened on 6th February, 2013 in the hotel which laid to the commission of offence of sexual inter-course without consent and against the will, is the omission and the said events were not told in the same manner as told before the Court in her substantive evidence.

5) Considering the above, in the opinion of this Court, there is some substance in the present appeal preferred by the appellant, so far as its merits are concerned. As such, in the opinion of this Court, considering the time which will be required to dispose of the appeal

and considering the evidence adduced before the trial Court, the applicant can be released on bail. Hence, the order:

6) Application for bail is allowed. The applicant be released on bail on executing PR bond of Rs.25,000/-with one or two sureties for the like amount. The bail before the trial Court.

7) With these directions, the application is disposed of.

(A.R.JOSHI, J.)