

FARAD CONTINUATION SHEET NO.
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.682 OF 2015
IN
CRIMINAL APPEAL NO.632 OF 2015
[Gorakshya Arjun Mahakal Vs. State]

Office Notes, Office
Memorandum of Coram,
appearances, Court's
orders or directions
and Registrar's orders

Court's or Judge's Orders

Mr. Navin R. Tiwari, for the Applicant.
Mrs. P.P. Bhosale, APP, for the State.

CORAM : A. R. JOSHI, J.

DATE : 10th AUGUST, 2015

P.C. :-

1. Heard rival arguments on this application for bail during pendency of appeal. The appeal is already admitted.
2. The applicant is convicted for the offence punishable under Section 376 of IPC and sentenced to suffer RI for seven years. He is also convicted for the offence punishable under Section 4 of the Protection of Children from Sexual Offences Act and sentenced to suffer RI for seven years.
3. In short, the case as against the applicant and as held established against the present applicant is that in the afternoon of 21.12.2013 the applicant accosted the victim girl (PW-1) on her

way when she was going to her class. That time the applicant who was rather known to the victim girl, offered her to give lift and to leave her near her class on his motorcycle. The victim girl accepted and took lift. But instead of taking her to class he took her to some other place and stopped the motorcycle and started conversation in which it was disclosed that he loves the girl. The victim girl resisted his such advances and stated that she was not in love with him but he insisted and then again stated that it was the lunch time and he would prefer to take lunch and asked her to accompany and if she did not accompany he will not take lunch. Thereafter he somehow managed to take her to one lodge and there he had forcible sexual intercourse with the girl. Thereafter he dropped her near her house. There was immediate disclosure by the victim girl to her mother regarding the incident and as such a police complaint was lodged.

4. During the arguments it is submitted on behalf of the applicant that the applicant and the girl were having apparent love affair and there was nothing like forcible sexual intercourse. Moreover it is submitted that the medical certificate is nil regarding any injuries on the private parts of the girl.

5. The factual position as accepted by the trial Court is that the girl was about 16 years and 2 months of age and as such was minor as per the definition of 'minor' and 'child' as contemplated by the Protection of Children from Sexual Offences Act. There was immediate disclosure to the mother of the girl and trial Court had held the testimony of the prosecutrix as trustworthy and mainly

considering her age convicted the appellant/applicant.

6. Considering that the offence is of serious nature and only because of some acquaintance the young girl aged less than 17 years has accompanied the applicant, he had taken disadvantage and committed forcible sexual intercourse with her. As such, in the opinion of this Court this is not a case in which the applicant can be released on bail during pendency of appeal. Hence, application for bail is dismissed and accordingly disposed of.

(A.R. JOSHI, J.)

Deshmane (PS)