

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.887 OF 2015  
IN  
CRIMINAL APPEAL NO.789 OF 2015

|                          |              |
|--------------------------|--------------|
| Eshwar Mukesh Keseghodam | ..Applicant  |
| <i>Versus</i>            |              |
| The State of Maharashtra | ..Respondent |

....  
Mr. Silvin Y. Kale, for the Applicant.  
Ms. Anamika Malhotra, APP, for the State.  
....

CORAM : A. R. JOSHI, J.

DATE : 19<sup>th</sup> AUGUST, 2015

P.C.

1. Heard rival arguments on this application for bail during pendency of appeal. Appeal is already admitted.
2. The applicant / appellant is convicted for the offence under Section 376 (1) of IPC and sentenced to suffer RI for ten years and to pay fine of Rs.500/- in default to suffer RI for one month.
3. During the arguments, various contradictions are brought to the notice of the Court vis-a-vis the substantive

evidence of the complainant (PW-1), the prosecutrix then aged about 19 years. The main thrust of the argument was that according to the prosecution and also as per the prosecution witnesses and mainly as per PW-4 there were 3-4 other persons present on the spot during the incident when the offence is alleged against the present applicant of inserting his finger in the private parts of the prosecutrix. Admittedly, according to the prosecutrix also there was no carnal intercourse. The history given to the Medical Officer (PW-5) is not in consonance with the complaint of the prosecutrix (PW-1). Even initially on the next day of the incident the complaint was only for the offence under Section 354 of IPC and after three days the charge under Section 376(1) of IPC was inserted.

4. Considering these circumstances, in the opinion of this Court the present applicant has substantially good arguable case. However it will take longer time for taking up present appeal for final adjudication and as such the present applicant can be released on bail as he is in custody since his day of arrest i.e. since April, 2014. Hence, the application for bail is allowed. The applicant be released on bail on his executing a

PR bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand Only) with one or two sureties for the like amount. After availing the bail, the applicant shall attend the concerned police station on first Sunday of every alternate month between 10:00 a.m. to 12:00 noon so as to ascertain his availability during the final hearing of the appeal. Application is disposed of accordingly.

( A. R. JOSHI, J.)

Deshmane (PS)