

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

CRIMINAL APPLICATION NO. 962 OF 2015
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Shabbir Munna Khan	...Applicant/Appellant
V/s.	
The State of Maharashtra	...Respondent

Mr.E.B.Dixit & Mr.P.R. Yadav i/by Mr.Priyan K. Dueby,
for the applicant-appellant.
Mrs.P.P. Bhosale, APP for the respondent-State.

CORAM : A.R. JOSHI, J.
DATE : 20TH AUGUST 2015

P.C.:

1. Heard rival arguments on this application for bail and suspension of sentence during the pendency of appeal.
2. The applicant is convicted for the offence punishable under section 376 of Indian Penal Code and sentenced to suffer RI for 10 years and to pay fine of Rs.500/- He is also convicted for the offence punishable under sections 4 and 8 of Protection of Childern From Sexual Offences Act and sentenced to suffer RI for 7 years and 3 years respectively. Reportedly during the trial the applicant was on bail after

conviction he has been taken in custody.

3. It is a case of the prosecution that the present applicant-appellant was running a Poultry shop in the front part of the house of the father of the prosecutrix girl. The girl was apparently aged about 15 and ½ years or so and due to frequent contact with the applicant she had developed a love affair with him. Apparently the applicant is also aged about 19 years or so. During the argument learned counsel for the applicant stated that the applicant was infact below the age of 18 years and as such his case could not have been taken by the regular Court but could have been transfer to Juvenile Justice Board. However, this was not the plea taken before the trial Court. As such this aspect shall not be dealt in detail while deciding the application for bail. It is further the case of the prosecution that the prosecutrix girl did not disclose the relation and only in second week of April 2013 when the mother of the girl noticed physical changes in the abdominal part of the girl she suspect that something has seriously happened with her girl and took her to the medical examination. In the medical examination it was revealed that the girl was carrying for about 8 to 10 weeks. It was decided to abort the featus and it was accordingly so done on or about 24th April 2013 under medical advice and it was done

by the lady doctor P.W.No.5. Inquiries were made with the prosecutrix and she disclosed the name of the applicant as the person with whom she had love affair and had sexual intercourse few months earlier.

4. Substantive evidence of the girl go to show that there was no coercion and compulsion on the part of the applicant to have sexual relations with him. Moreover, in her cross-examination she had admitted of having written love letters to him and in fact she did not disclose her relation with the applicant till it was the disclosure by the nature and noticed by her mother.

5. Considering these circumstances and mainly considering that the applicant was on bail during the pendency of the trial, in the opinion of this Court the present application can be allowed. Hence the applicant be released on same bail as granted by the trial Court with fresh bond to be executed before the trial Court.

6. Accordingly the application for bail and also for suspension of sentence are allowed and disposed of.

(A.R. JOSHI, J.)