

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

**CRIMINAL APPLICATION NO.973 OF 2015
IN
CRIMINAL APPEAL NO.798 OF 2015**

Bhagwan P. Jadhav ..Appellant
V/s.
The State of Maharashtra .. Respondent

Mr.Mahesh Joshi, for applicant/appellant.
Mr.A.R.Patil, APP for Respondent-State.

CORAM : A. R. JOSHI, J.

DATE : 16th SEPTEMBER, 2015.

P.C.

1. Heard learned counsel for the applicant-appellant on this application for bail during pendency of appeal. Also heard learned APP for the State.

2. The case of the prosecution is that applicant-appellant had committed sexual assault on the victim girl aged about 3 and 1/2 years in the evening of 08th May 2014. According to the case of the prosecution, the victim girl was paying in the house of the applicant-appellant who was residing in the nearby area where the victim girl was staying

with her parents. On that evening father of the victim came home and enquired with his wife regarding their child. Thereafter knowing that child might be in the house of the applicant, he went to the house of the applicant and saw that the applicant was sleeping by the side of the child in his room. He also noticed that the child was crying. He gave two-three fist blows on the back of the applicant and took away the child and narrated the incident to his wife. Then they went to the police station and mother of the child lodged the complaint.

3. During the cross-examination of the P.W.No.2 i.e. father of the victim child a defence was put to him that he had committed a theft of building construction articles i.e. some iron rods and the said building construction was of the daughter of the present applicant. Even on behalf of the applicant his wife and one more woman were examined as defense witness and the same defence was raised. Apparently, there is no medical evidence as definitely it was not the case for the penetrative sexual assault. Considering the material prima-facie available, in the opinion of this Court, there is scope for

the applicant of success in the present appeal and as such the present application for bail can be allowed as the appeal will take much longer time for conclusion. In the result, the present application is allowed and substantive sentence is suspended.

4. Applicant be released on bail in the sum of Rs.15,000/- with one or two sureties in the like amount. Bail procedure be taken in the trial Court. Application is accordingly disposed of. The bail order is effective only on payment of fine amount.

(A. R. JOSHI, J)

CERTIFICATE

Certified to be true and correct copy of the original
signed order.