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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 1347 of 2014

WITH

CRIMINAL APPEAL No. 188 OF 2015

Dhumlya @ Siddharth Manoj Siraswal }Applicant/Appellant.

Vs

State of Maharashtra

}Respondent.

Ms Gazla Shaikh, appointed Advocate for the Applicant.

Mr A.R. Patil, APP for the State.

CORAM : A.R.JOSHI,J

DATE : 8th July, 2015

PC. :

1 Heard learned appointed advocate for the applicant in this application for bail during the pendency of the appeal. The appeal is already admitted. The notes of evidence are also filed on record.

2 It is the case of the prosecution that the accused committed forcible sexual intercourse on the prosecutrix girl, aged about 20 years and also subjected her to the unnatural act punishable under section 377 of IPC. The incident of forcible sexual intercourse occurred on two dates, firstly on 25th April,2011 and secondly on 27th April,2011 when on both the occasions the prosecutrix was alone in the house and the applicant entered into the house of the prosecutrix for drinking water. Apparently, he was a friend of the brother of the

prosecutrix. After the first incident on 25th April, 2011, the events were narrated by the girl to her parents but it was decided not to lodge the complaint to avoid stigma. Thereafter, after the second incident, again the complaint was not lodged but the girl was taken to another place at Miraj to her other relative. But at that place also the appellant-accused reached and started threatening the prosecutrix and hence the complaint was lodged at Miraj Police Station on or about 13th May, 2011.

3 The main argument advanced on behalf of the applicant is that there was variance in the statement of the girl as to which clothes she was wearing during the incident of the alleged sexual assault. It is also submitted that since May, 2011 the applicant is in custody and he has already undergone more than four years out of seven years of imprisonment awarded against him. Though this is the factual position, considering the material available on record, in the opinion of this Court, the present application cannot be allowed, releasing him on bail during the pendency of the appeal. On the contrary, the appeal can be taken up for final adjudication so that entire matter can be disposed of on merits. Hence, the present application for bail is rejected and disposed of.

4 Office to place the criminal appeal for final hearing on 13th August, 2015.

(A.R.JOSHI, J.)