

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

**CRIMINAL APPLICATION NO. 1348 OF 2013
IN
CRIMINAL APPEAL NO. 1061 OF 2013**

Dattatray @ Kashinath Babaso Khatal	..Applicant/Appellant (Original Accused)
V/s. The State of Maharashtra	.. Respondent (Original Complainant)

Mr. Rajaram V. Bansode, for applicant/appellant.
Mr.A.R. Patil, APP for State.

CORAM : A. R. JOSHI, J.
DATE : 22ND JUNE, 2015.

P.C.

1. Heard the learned counsel for the applicant-appellant in this application for bail during the pendency of the appeal. The applicant is convicted for the offences punishable under sections 376 and 506 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for 7 years and one year respectively. The conviction was awarded on 22nd August 2013.

2. The allegations against the applicant are that on 26th June 2008 he accosted the victim girl, aged about 19 years,

when she was on her way back to home after her work as a sales girl. The accused took her on his motor cycle by promising her to reach her at home as it was night time of about 8.00 pm. He also talked to her regarding her village and created an atmosphere of confidence. The victim took the seat on his motor cycle as a pillion rider. Instead of taking the victim to her home, he took her to Phaltan-Satara Road. By showing her knife and by threatening her at the point of knife forcibly committed sexual intercourse against her will and without her consent. He threatened her by means of a knife so that there can be no resistance to his act. Apparently, twice such forcible sexual intercourse was committed and second time the girl rescued herself from the accused and shouted for help. Various vehicles were passing by the road and some of the vehicles stopped. By that time one patrolling police van came and started enquiry. She narrated the entire incident to the police and the police started search of the applicant, but he tried to run away. He was apprehended. Both the girl and the applicant were brought to the concerned police station. Motorcycle of the applicant was also taken charge of.

3. The conviction of the applicant is based mainly on the substantive evidence of PW-1 prosecutrix and that of PW-4 the Police Officer who happened to hear the incident told by the prosecutrix and who apprehended the applicant on the spot. The trial Court has also relied on the evidence of the doctor.

4. During the arguments, the learned counsel for the applicant tried to argue that there was some attempt made by the father of the prosecutrix to extract money from the son of the applicant and apparently an amount of Rs. 2 lakhs has been given to the father but when the remaining amount could not be given the matter proceeded further and the prosecutrix continued her evidence before the court. By pointing out this it is suggested on behalf of the applicant that it was attempt on the part of the prosecutrix and her father to extract money so as to hush up the matter by giving favorable evidence to the applicant on monetary considerations. Though prima-facie this submission, if accepted, it will not negate the entire case of the prosecution as to the substantive evidence of the prosecutrix

and apprehension of the applicant on the spot by the police. In the event, considering the gravity of the matter and considering the applicant's conviction and imposition of sentence of 7 years for the main offences punishable under section 376 of the Indian Penal Code, it is not a case in which the applicant/appellant can be released on bail during the pendency of his appeal. Hence, application for bail is rejected and disposed of accordingly.

(A. R. JOSHI, J)