

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE

CRIMINAL APPLICATION NO. 1495 IOF 2014

IN

CRIMINAL APPEAL NO. 827 OF 2014

Dattu Narayan Mate .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr. Nitin Pradhan, Sr. Advocate a/w Mrs. Shubda D. Khot,
Advocate for the appellant

Ms. Anamika Malhotra, APP for the State

CORAM:-A. R. JOSHI, J.

DATED : -16/06/2015

P.C.

Heard the learned Senior Counsel for the applicant and
learned APP for the respondent State, on this application for bail
during the pendency of appeal.

2 The appeal is already admitted.

3 The applicant is convicted for the offence punishable
u/s 376 of IPC and sentenced to suffer RI for ten years and to pay
fine of Rs.5,000/-. He was also convicted for the offence u/s 4 of

the Protection of Children from Sexual Offences Act, 2012 and sentenced to suffer RI for seven years. During the arguments the only point canvassed before the Court is that there is absolutely no medical evidence of sexual assault or commission of offence of rape on the victim girl then aged about 16 years. This Court has gone through the contents of the medical certificate and also substantive evidence of the Doctor who clinically examined the victim. The doctor has specifically answered that she had not noticed any injuries on the private part of the victim girl. Even the medical examination report do not show any tear of the hymen and also no injuries on the private part of the girl. Apart from this there is another circumstance to be considered that the incident of rape alleged against the applicant occurred in the afternoon on 28th of July, 2013 and in the evening when the mother of the victim girl came home, the girl informed her that the applicant had been to her house and had teased her. That time also there was no mention of sexual assault on her by the applicant. Thereafter on 2nd of August, 2013, the first information report was lodged against the present applicant. During the trial the applicant was granted bail mainly on

the contents of the medical certificate produced then. As such during the trial the applicant was on bail.

3 Considering the above factual position and considering that the appeal will take much time for decision the matter on merits and considering the material available against the accused and the effect of the medical evidence, in the opinion of this Court, the present applicant can be released on bail during the pendency of the appeal. Hence order:

The applicant shall be released on same bail as granted by the trial Court with fresh bond to be executed before the trial court.

4 Application is disposed of accordingly.

(A. R. JOSHI, J.)

md.saleem