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*IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION No. 1610 of 2014
IN
CRIMINAL APPEAL No.1241 of 2013.*

Appa Vasant Narute and Anr ..Applicants/Appellants.
Vs
State of Maharashtra ..Respondent.
Mr Ujwal R. Agandurve for the Applicant.
Mrs PP. Bhosale APP for the State.

CORAM : A.R.JOSHI,J
DATE : 24th JUNE, 2015

PC. :

- 1) *Appeal is already admitted.*
- 2) Heard learned counsel for the applicant on the application for bail during the pendency of the appeal. Also heard the learned APP for the State.
- 3) *Both the applicants were convicted for the offence under section 376 (2) (g) of IPC and are sentenced to suffer RI for ten years and to pay a fine of Rs.2,000/-each. Reportedly, during the trial the applicants were on bail. But when the applicant No.2 did not remain present before the Trial Court, he was taken in custody and trial proceeded and ended in conviction by order dated 21st October, 2013. Since that date the applicants are in custody. After the date of conviction even the applicant No.1 was taken in custody and till date both the applicants are in custody.*
- 4) During the arguments, the learned counsel for the applicants took this Court through the substantive evidence of the prosecution

witnesses and mainly the evidence of prosecutrix an admittedly mentally retarded woman of adult age. Also the substantive evidence of her mother was gone through. It is argued that admittedly the brother and father i.e. PW 3 and 4 and both the neighbours who are PW 9 and 10 did not support the case of the prosecution. According to the case of the prosecution, there were two incidents of gang rape committed by both these applicants on the prosecutrix PW1. First one was about a year prior to August, 2012 and second one was on 1st August, 2012. The FIR was lodged on 5th August, 2012 on the complaint lodged by the prosecutrix. It is brought to the notice of this Court, apart from the hostility of the real brother and father of the prosecutrix and two neighbours that the prosecutrix admitted demand of Rs.15000/- by her mother from the applicants to hush up the matter. It is further argued that possibly it was the reason for belated lodging of FIR, after four days. In short, it is argued on behalf of the applicants that this is a matter in which there are great chances of success in the appeal.

5) Considering the specific circumstances and the effect of substantive evidence coupled with CA report being inconclusive, in the opinion of this Court, the applicants can be released on bail during the pendency of the appeal which will take rather long time for conclusion on merits. Hence, the application is allowed. The applicants be released on same bail as granted by the trial Court with fresh bonds. Bail before the trial Court. Application is disposed of.

(A.R.JOSHI, J.)