

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (APPA) NO. 332 OF 2015

IN

CRIMINAL APPEAL NO. 161 OF 2015

(Vishal Vasantrao Kumar Vs. State of Maharashtra)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R. J. Shinde, Advocate for the applicant.
Shri A. K. Bangadkar, A.P.P. for the State.

CORAM : V. M. DESHPANDE, J.

DATED : 15th OCTOBER, 2015

This is an application for suspension of substantive jail sentence.

Heard Shri Shinde, learned Counsel for the applicant and Shri Bangadkar, learned A.P.P. for the State.

The learned Additional Sessions Judge, Pusad, by judgment and order dated 30/12/2014 in Special Case No.39/2013, has convicted the applicant for the offence punishable under Section 376 of the Indian Penal Code and directed to suffer rigorous imprisonment for a period of ten years. The applicant is also convicted for the offence punishable under Section 147 of I.P.C. and on that count he is directed to suffer rigorous imprisonment for six months. The applicant is also directed to pay fine of Rs.2,00,000/- for the offence punishable under Section

376 of I.P.C. The learned Judge also ordered that if the fine amount is paid, said fine amount shall be given to a minor child delivered by the prosecutrix.

After hearing the learned Counsel for the applicant and after having gone through the record and proceedings, especially the evidence of the prosecutrix as well as the evidence of P.W.-6 Tulsidas, the Headmaster, it is clear that date of birth of the prosecutrix is 11/01/1998, whereas the first information report, which is lodged on 17/7/2011, when the prosecutrix was carrying pregnancy of 20 weeks, clearly shows that the prosecutrix was minor and was not able to extend any consent at the time of commission of the offence.

Exhibit-13 is DNA report, which clearly shows that the present applicant is putative father of the child delivered by the prosecutrix.

The applicant was not on bail during the trial. The applicant is convicted for having committed a heinous crime of rape on the minor child. Hence, the application is rejected.

JUDGE