

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application No. 347 of 2015
IN
Criminal Appeal No. 209 of 2015
[Anil Gangadhar Meshram (in jail) Vs. State of Mah.]

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

Court's or Judge's orders

Mr. S.D. Malke, Adv., for the applicant-appellant.
Mr. Bangadkar, APP for respondent.

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CORAM : V.M. DESHPANDE, J.

DATE : 23rd October, 2015.

This is an application for suspension of substantive jail sentence and for grant of bail.

This Court was pleased to admit the appeal on 4th September, 2015. On the said day, it was ordered that the present application will be considered after receipt of record and proceedings. R & P is received.

Heard learned counsel Mr. S.D. Malke for the applicant and learned APP Mr. Bangadkar for the respondent – State.

The appellant is convicted by the learned

Additional Sessions Judge, Warora, on 20th May, 2015 in Session Case No. 32 of 2010, for the offence punishable under Section 376 of Indian Penal Code, and is directed to suffer Rigorous Imprisonment for ten years and to pay a fine of Rs. 2000/-.

The prosecutrix is examined by the prosecution as PW 1. She is major. Even at the time of incident, she was major. From her evidence, it is crystal clear that the present applicant is in her close relation and she was knowing that there cannot be marriage between the prosecutrix and present applicant. In spite of that, if the evidence of the prosecutrix is perused, it shows that she agreed for sexual intercourse on the promise of marriage.

Looking to the nature of the evidence adduced on record by prosecutrix herself, in my view, the applicant has made out a case for suspension of substantive jail sentence.

The applicant was on bail throughout during trial and at no point of time, he misused the liberty granted to him. In that view of the matter, I propose to pass the following order:-

ORDER

[a] Criminal Application [APPA] No. 347 of 2015 is allowed.

[b] The substantive jail sentence imposed upon the applicant by the learned Additional Sessions Judge, Warora, in Sessions Case No. 32 of 2010 shall remain suspended during pendency of the present appeal.

[c] The applicant Anil Gangadhar Meshram be released on bail on he executing a Personal Bond of Rs. 25,000/- [rupees twenty-five thousand only] with one solvent surety in the like amount.

[d] Bail before Trial Court.

[e] The Court before whom the bail bond shall be executed shall ensure deposit of entire fine amount.

[f] The applicant shall remain personally present before this Court at the time of final hearing.

With this, the application is allowed and disposed of.

Judge

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