

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 2077 OF 2016

IN

CRIMINAL APPEAL NO. 236 OF 2016

Gangadhar Devrao Yedke, Age : 30 years, Occu. Labour,
R/o. Kondlapur, Tq. Biloli, At. Pre. Bolsha (GP), Tq. Umri,
Dist. Nanded.

.. Applicant

Versus

The State of Maharashtra & Anr.

.. Respondents

.....
Mr Santosh C. Bhosle, Advocate for the applicant.
Mr A. V. Deshmukh, APP for respondent/State.
.....

CORAM : VL. ACHLIYA, J.
DATED : 23.08.2016.

PER COURT :

1. Heard learned counsel for the respective parties. Perused the application and impugned judgment and order passed by the trial Court.
2. The applicant is convicted u/s 363, 366 and 376 of the Indian Penal Code (IPC) and sections 4, 8 and 12 of the Protection of Children from Sexual Offences Act, 2012. For committing offence u/s 376 of IPC, the accused has been ordered to undergo rigorous imprisonment for seven years and to pay fine of Rs. 2,000/-, in default, to undergo rigorous imprisonment for one year.
3. It is the contention of the learned counsel for the applicant that, prosecution has failed to prove its case beyond reasonable doubt. He has further contended that the prosecution has failed to establish that the victim was below 18

years of age at the relevant time and accused has forcibly committed sexual intercourse with the victim. On the other hand, learned APP opposed the application with contention that, the prosecution has proved its case beyond reasonable doubt. By way of documentary evidence, the prosecution has established that at the time of the incident, the age of girl was below 18 years.

4. Having appreciated the submissions advanced in the light of the evidence on record and the reasons and findings recorded by the trial Court, I am of the view that arguable case has been made out to be considered in appeal. It appears from the evidence on record that the victim girl was at the verge of attaining the age of maturity. She was well acquainted with the accused. For a considerable period, they stayed together. Looking to sentence awarded and it will take long time to list the appeal for final hearing, the accused deserves to be released on bail.

ORDER

- (1) The Criminal Application No. 2077 of 2016 is allowed in terms of prayer clause 'C'.
- (2) Pending disposal of the appeal, sentence awarded by the trial Court stands suspended.
- (3) Pending disposal of the appeal, applicant be released on bail on his furnishing bail in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand) with one or two sureties in the like amount on the following conditions:
 - (i) Applicant shall visit and record his attendance with Police Station Umari, Dist. Nanded, on every 2nd & 4th Sunday in between 10:00 AM to 11:00 AM in each month, till disposal of the appeal.

- (ii) Applicant shall furnish the names, addresses and phone numbers with residential proof of his three close relatives.
 - (iii) Applicant shall not cause any threat to the complainant, victim and witnesses in the case.
 - (iv) Applicant shall not leave the Nanded city without prior intimation to the concerned Police Station.
 - (v) Applicant shall not involve in any criminal activities.
- (4) In case of breach of any of the conditions as above, bail granted to the applicant shall be liable to be cancelled.
- (5) Bail to be furnished in trial Court.

[V. L. ACHLIYA]
JUDGE