

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

CRIMINAL APPLICATION NO.2478 OF 2016 IN  
CRIMINAL APPEAL NO.294 OF 2016

Nitin s/o Dnyanoba Maske ... APPLICANT

VERSUS

The State of Maharashtra ... RESPONDENT

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Shri S.B. Solanke, Advocate for applicant  
Shri K.D. Mundhe, A.P.P. for respondent  
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CORAM: A.I.S. CHEEMA, J.

DATED: 8th August, 2016.

ORAL ORDER :

1. Heard learned counsel for the applicant. Perused the bail application. Heard A.P.P. for State. The criminal appeal is already admitted.

2. The learned counsel for applicant states that, the applicant is step father of the victim. The victim filed the complaint against the step father, alleging outraging of modesty and continuous acts on that count for 15 days since before 2.3.2015. The learned Counsel states that, the applicant was

arrested on 2.3.2015 on the F.I.R. filed by the victim, who was about 10-12 years of age at the concerned time. It is stated that, the real father of the victim was in jail and the P.W.1 Shamal, the real mother of the victim had married the applicant. According to the counsel, the defence of the applicant in the trial Court was that, at the instance of real father the victim filed the complaint.

3. It is stated that, the applicant has hopes of success in the appeal, which will take time to decide and thus, the applicant may be admitted to bail. He is already in jail for about one and a half year. The counsel states that, the sentence may be suspended.

4. The learned A.P.P. opposes the application. He states that, the facts as found in the record of the trial Court do not show that the mother of the victim was actually married with the applicant. It was mere live-in relationship, in which the applicant took advantage to outrage modesty of the victim girl. The A.P.P. submits that, looking to the judgment of the trial Court, the applicant should not be released on bail.

5. Going through the material available, what appears is that, the victim was in a situation where her condition could be

abused and when it appears that, her father was in jail, her filing of such complaint shows serious situation where she was required to be protected as her mother went into a relationship with the applicant - accused. It appears that, although the investigating officer states that, initially the victim had come along with her mother to file F.I.R., subsequently the mother has changed side and stepped into the witness box as D.W.1. I do not think that this is a fit case where the applicant should be released on bail during pendency of the appeal. The victim is required to be protected. The bail application is thus not accepted.

6. The application is rejected. The appeal, however, is expedited.

7. Paper Book be got prepared urgently.

( A.I.S. CHEEMA, J.)