

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

CRIMINAL APPLICATION NO. 2728 OF 2016
IN
CRIMINAL APPEAL NO. 327 OF 2016

Sandip S/o Pandurang Kadam,
Age : 27 years, Occu. Agril,
R/o. Chincholi, Tq. Tuljapur, Dist. Osmanabad. .. Applicant

Versus

The State of Maharashtra. .. Respondent

Mr Vivek Deshmukh, Advocate for the applicant
Mr A. V. Deshmukh, APP for respondent/State

CORAM : V.L. ACHLIYA, J.
DATED : 23.08.2016.

PER COURT :

. Heard learned counsel for the respective parties. Perused the application, impugned judgment and order passed by the trial Court and the copies of the depositions made available by learned counsel for the applicant.

2. The applicant was tried for committing offence u/s 376 of the Indian Penal Code. On conclusion of trial, the trial Court found the

accused guilty of said offence and sentenced to undergo rigorous imprisonment for seven year and to pay fine of Rs. 1,000/-.

3. In nutshell, it is the contention of the learned counsel for the applicant that no incident of rape has taken place. In fact, the prosecutrix has forced the accused to have sex with her. One Surekhabai had witnessed the accused and the prosecutrix in a compromising position. In order to save her skin, the prosecutrix made false allegations of rape against accused. He has further submitted that, during the trial the accused was on bail and he has not misused the bail granted in his favour.

4. On the other hand, learned APP has opposed the application with contention that, there is strong case against the accused. The prosecution has categorically deposed that the accused has forcibly committed rape on her. The medical evidence and the report of the Chemical Analyzer corroborate the testimony of the prosecutrix. He has therefore urged that, the applicant may not be released on bail.

5. Having appreciated the submissions advanced in the light of the reasons and findings recorded by the trial Court and further perused

the testimony of the prosecutrix, I am of the view that the applicant is not entitled to be released on bail. The conviction awarded by the trial Court is based upon due appreciation of evidence. The incident of rape was committed during the day time. Prosecutrix is a married woman. Release of applicant may endanger the life of prosecutrix and possibility of applicant may abscond can not be ruled out. Hence, the following order.

ORDER

- (i) The Criminal Application No. 2728 of 2016 is rejected.
- (ii) The hearing of the appeal is expedited.
- (iii) The Sessions Court is directed to prepare the paper book within a period of eight weeks from the date of communication of this order and forward the same with R&P.
- (iv) List the Appeal for final hearing on receipt of R&P in the category of final hearing.

[V. L. ACHLIYA]
JUDGE