

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

**CRIMINAL APPLICATION NO.4813 OF 2016
IN
CRIMINAL APPEAL NO.494 OF 2016**

Ramdas Alias Ramkishan Nagnath Hulgunde .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.Govind A. Kulkarni, Advaocate with Mr. Rajendra S. Deshmukh, Advocate for the applicant
Mr.S.T.Tiwari, APP for the respondent/State

**CORAM : V.L.ACHLIYA, J.
DATED : 24.10.2016**

P.C. :-

1. The applicant has moved this application seeking bail on the ground set out in detail in the application. The applicant was tried for committing the offence u/s. 376, 452, 323, 506 of I.P.C. and u/s. 3(2)(v) of SC/ST (Prevention of Atrocities) Act.

2. On conclusion of the trial, the trial Court has held the accused guilty of the said offences. For committing offence u/s. 376 of I.P.C. and u/s. 3(2)(v) of Sc/ST (Prevention and Atrocities) Act the applicant sentence to suffer R.I. for ten years and to pay fine of Rs.2000/- i/d S.I. for six month. For committing offence

U/s. 452 & 506 he sentenced to suffer R.I. for three years and to pay fine of Rs.1000/- i/d S.I. for three months for each section. And for committing offence u/s. 323 of IPC he sentenced to suffer R.I. for six months and to pay fine of Rs.500/- i/d S.I. for one month.

3. Learned counsel for the applicant strenuously contended that the judgment and order passed by the trial Court is based upon improper appreciation of evidence on record. He submits that if we accept the testimony of the prosecutrix as it is and other evidence adduced by the prosecutrix no case of rape is made out. He submits that if we consider the offer of evidence then it can be safely inferred that the sexual intercourse was by consent. Only for the reasons that the husband of the prosecutrix came to house and found the accused inside the house. The false complaint has been made by the prosecutrix due to the pressure exaggerated by her husband.

4. On the other hand the learned APP has opposed the application with contention that the applicant was caught inside the house of the prosecutrix. The prosecutrix has fully supported the case of the prosecution. She has categorically stated that accused has committed sexual intercourse without her consent by

taking disadvantage that her husband was not present in the house. The testimony of the prosecutrix is duly corroborated through the testimony of husband of the prosecutrix and other witness. As per Chemical Analysis report semen matching the blood group of accused defected over peticot and nicker of the prosecutrix.

5. Having appreciated the submission advanced in the light of reasons and findings recorded by the trial Court and evidence adduced in the matter I am of the view that there is sufficient evidence to connect the applicant with the offense with he was charged and convicted by the trial Court. The offense is of serious nature. The applicant is sentenced suffer R.I. for 10 years. Beside committing offense u/s. 376 and others of IPC the applicant also found guilty of offence under the provision of SC/ST (Prevention and Atricoties) Act. The possibility cannot be ruled out that in the event of released on bail the applicant may misused the bail and abscond. In this view I am not inclined to allow the application. Accordingly the application is rejected.

6. Hearing of the appeal is expedited. Trial Court is directed to send R & P with paper book within six months from communication of order.

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7. R & P be returned to the trial Court to prepare the paper book.

[V.L.ACHLIYA, J.]

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