

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

**CRIMINAL APPLICATION NO. 5433 OF 2016
IN
CRIMINAL APEAL/559/2016**

HANMANT PARASAPPA CHINCHORE
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicant : Mr S S Gangakhedkar
APP for Respondents: Mr S W Mundhe

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CORAM : V.K. JADHAV, J.
Dated: November 28, 2016

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PER COURT :-

1. The applicant-original accused seeks suspension of sentence passed by the Special Judge and Additional Sessions Judge, Omerga in Special Case No.8/2014 dated 23.8.2016.

2. The learned counsel for the applicant-accused submits that there is delay in lodging the complaint and prosecution has not explained said delay satisfactorily. Learned counsel submits that, there is no corroboration to the evidence of the victim and even the mother of the victim has not supported the prosecution case. Learned counsel further submits that victim's evidence is

inconsistent with the medical evidence and prosecution has failed to explain the injuries sustained by the applicant-accused. Learned counsel submits that, during the course of the trial the applicant-accused was on bail and he has deposited the entire fine amount before the trial court.

3. The learned APP has strongly opposed the application on the ground that, the evidence of the victim is consistent, reliable and the learned judge of the trial Court has rightly convicted the accused for the offence punishable u/s 354, 506 of Indian Penal Code.

4. It appears that, though incident had taken place on 16.10.2013 the complaint was filed on 17.10.2013 at about 07.30 p.m. It has alleged in the complaint that on the day of incident, twice the applicant-accused tried to outrage modesty of the victim and in the second attempt he self inflicted injury on his forehead. However, the medical evidence is inconsistent with her evidence before the Court. Prosecution has examined PW 6 Dr. Nitin Bhosale, who has deposed that applicant-accused

had sustained the injury on his forehead three hours prior to his examination i.e. in the evening on 17.10.2013. Further, victim's mother has not supported the prosecution case in any manner and she further accepted that relations with the applicant-accused became strained on account of re-payment of hand loan. The applicant-accused was on bail during the course of the trial and he never misused said liberty as such. Further the applicant accused has roots in the society and he is not likely to be absconded if released on bail during the pendency of appeal. Hence, following order.

O R D E R

- I. The application is hereby allowed.
- II. The substantive part of sentence passed by the Special Judge and Additional Sessions Judge and Additional Sessions Judge, Omerga, dated 23.8.2016 in Special Case No.8/2014 convicting thereby the applicant accused for the offence punishable under section 354 and sentenced to suffer R.I. for five years and to pay fine of Rs.5,000/-, in default to suffer R.I. for one month and further sentencing him to suffer R.I. for six months and to pay fine of Rs.5,000/-, in

default to suffer RI for fifteen days under section 506 of IPC stands suspended till the disposal of the appeal and till then, the applicant-accused HANMANT PARASAPPA CHINCHORE be released on bail on his furnishing P.B. of Rs.20,000/- (Rs. Twenty thousand) with one surety of the like amount.

- III. Bail before the trial Court.
- IV. Humdast allowed.
- V. Criminal application accordingly disposed off.

(V.K. JADHAV, J.)

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aaa/-