

1. Heard Mrs. Mane, learned counsel for the applicant. She submits that, the applicant deserves to be released on bail pending decision of Criminal Appeal because, as the observations in the judgment of the trial Court itself show, the trial Court calculated the date of first intercourse around January 2013, when the prosecutrix was 14 years and 10 months old. According to learned counsel, the evidence shows that, the

relationship between the victim and the accused was consensus and thus, according to her, the offence was not made out. She submits that, the amendments in Section 376 of the Indian Penal Code brought about show that, the law has, after the amendment, treated relationships between the age of 14 to 18 separately. She submits that, the Court may put any conditions and restrictions on the applicant/ appellant - accused and he may be granted bail.

2. Mr. Phule, learned A.P.P. opposed the application. According to him, the first incident of sexual intercourse calculated is of January 2013, and looking to the provisions at that time, the victim must be treated as minor and her consent would be immaterial, and the offence was established by the prosecution in the trial Court.

3. I have gone through the material available. The applicant/ appellant - original accused, at the time of trial, was shown as 32 years of age and was a married person. Still, it appears from record that, he entered into relationship with the prosecutrix, causing birth of a child, which was abandoned. The D.N.A. test linked the child, the prosecutrix and the

accused. At relevant time, Section 375 of the Indian Penal Code, (before the Criminal Law Amendment, 2013, came into force w.e.f. 3.2.2013), provided that, it would be rape to have intercourse with or without consent of a girl who is under 16 years of age.

4. Looking at the material available and the judgment of the trial Court, it does not prima facie appear that, the reasoning recorded by the trial Court while convicting the appellant - accused are baseless. Looking to the nature of offence and record, it would not be appropriate to grant bail to the present applicant/ appellant - accused.

5. The Criminal Application is rejected. Hearing of the Appeal is, however, expedited.

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