

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO. 5699 OF 2015

IN

CRIMINAL APPEAL NO. 819 OF 2015

Pratik Pandurang Atkar,
Age : 25 years, Occu. Nil,
R/o Irrigation Colony,
Alamgir, Bhingar, Ahmednagar

APPLICANT

VERSUS

State of Maharashtra,
through Police Inspector,
Tophkhana Police Station,
Ahmednagar, Dist. Ahmednagar

RESPONDENT

Mr. Suvidh S. Kulkarni, Advocate for the applicant
Mr. R.V. Dasalkar, A.P.P. for the respondent-State

CORAM : M.T. JOSHI, J.

DATE : 20/01/2016

ORAL ORDER :

1. Heard both sides.
2. The present applicant, who was convicted by the learned Additional Sessions Judge-cum-Special Judge, Ahmednagar, vide his judgement and order dated 21st August, 2014 passed in Sessions Case No. 146/2013, for the offence punishable under section 4 of the Protection of Children from Sexual Offences Act, 2012 and under

section 376 (2) and 366 of the Indian Penal Code, is praying for suspension of substantive sentences i.e. rigorous imprisonment for ten years and three years, respectively, awarded to him and for his release on bail during pendency of the criminal appeal.

3. The prosecution case is that the fourteen years old victim of the offence was abducted by the present applicant against her will by threatening her that if she would not accompany him, her brother would be abducted. The prosecution case is that thereafter, the present applicant in collaboration with two other acquitted accused took her by one car to Shrirampur and thereafter to Baramati. At Baramati, she was kept for two days and thereafter, the appellant left her again at the city of residence i.e. Ahmednagar.

4. The Medical Officer — PW6 Dr. Priya Jagtap though has not found injuries on the person of the victim, according to her, the hymen of the victim was found torn and in her opinion, the victim was habituated to the sexual intercourse.

5. Learned counsel for the applicant points

towards the fact that while as per the prosecution case as well as per the version of the victim, she was taken by the applicant/appellant to Shrirampur and Baramati, the deposition of the mother of the victim – PW2 Yasmin Khan would show that after two days of the taking away of the victim, the victim made a phone call to her and during the talk, the victim had told her that she (the victim) was in Panjim-Goa and that she was alright. In the circumstances, learned counsel submitted that the false allegations are made against him. According to him, the age of the victim claimed as fourteen years is not satisfactorily proved. Learned counsel further submits that since the date of arrest i.e. December, 2012, the applicant/appellant is behind the bars.

6. The learned A.P.P., on the other hand, submitted that the prosecution has proved the age of the victim as fourteen years by bringing the birth certificate of the victim from the Municipal Corporation and by examining the witnesses.

7. Considering all the material on record, without making any comment on the merit of the case, since hearing in the appeal would take its own time, in my

view, the applicant deserves to be released on bail.

Hence, the following order:-

8. The substantive sentences awarded to the applicant are hereby suspended till the disposal of criminal appeal. Upon deposit of fine amount if not deposited till this date, the applicant - Pratik Pandurang Atkar be released on bail, on his executing P.R. bond in the sum of Rs. 20,000/- (rupees twenty thousand) and also upon furnishing surety in the like amount.

9. The application is accordingly allowed and disposed of.

10. Hamdast of this order is granted, at the request of learned counsel for the applicant/appellant.

[M.T. JOSHI]
JUDGE

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