

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

**CRIMINAL APPLICATION NO.296 OF 2016
IN
CRIMINAL APPEAL NO.201 OF 2016**

Tukaram Devaram Gawade ... **Appellant/Applicant**
V/s.
The State of Maharashtra ... **Respondent**
.....

Smt.Sonia S. Miskin, Appointed Advocate for the Appellant/Applicant.
Mr.A.R.Kapadnis, APP for the Respondent/State.

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CORAM : A. M. BADAR J.

DATED : 16th NOVEMBER 2016.

P.C.

1 This is an application by the appellant for suspension of sentence and releasing him on bail during pendency of trial.

2 Heard the learned counsel for the applicant/appellant. He vehemently argued that there is unexplained delay in lodging the FIR and even the medical evidence does not support the prosecution case and no injury was found on person of the alleged victim of the crime in question. The learned counsel further argued that even the appellant is a young boy of about 21 years of age and, therefore, his detention in prison during the pendency of appeal is not warranted. In the alternative, the learned counsel for the applicant/appellant submitted that as Record and Proceedings is received by this Court, and as the

appeal involves examination of evidence of only few witnesses, hearing of the appeal may be expedited by dispensing with the paper book.

3 The learned Additional Public Prosecutor opposed the application by contending that the crime in question is serious and the applicant/accused was under-trial prisoner even during pendency of trial.

4 I have considered the rival submissions and perused the evidence of the alleged victim of the crime in question. She is reported to be 13 years old female child. As per her version, the applicant/accused had committed rape on her. During her medical examination, her hymen was found to be perforated. Considering the nature of offence and the fact that the applicant/accused was under-trial prisoner during pendency of trial, as well as the fact that the learned counsel for the applicant/applicant in the alternative prayed for expeditious hearing of the appeal, the following order.

- (i) The application for suspension of sentence and releasing the applicant on bail is rejected.
- (ii) By consent of parties, paper book is dispensed with.
- (iii) By consent of parties, the appeal be put up for final hearing with Record and Proceedings on **1st December 2016**.

(A. M. BADAR J.)