

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE

**CRIMINAL APPLICATION NO.689 OF 2016
IN
CRIMINAL APEAL NO.437 OF 2016**

Bapu Shahaji Gaikwad ... **Appellant/Applicant**
V/s.
The State of Maharashtra ... **Respondent**
.....

None for the Appellant/Applicant.
Ms.V.S.Mhaispurkar, APP for the Respondent/State.
....

CORAM : A. M. BADAR J.

DATED : 16th NOVEMBER 2016.

P.C.

1 This is an application for suspension of sentence and release of applicant/accused on bail during pendency of the trial.

2 The appointed counsel is absent. The learned Additional Public Prosecutor also expresses her inability to assist the Court by stating that she does not have papers.

3 Perused the Record and Proceedings. It is seen that after due trial of the case, the learned Additional Sessions Judge came to the conclusion that the applicant/accused had kidnapped minor prosecutrix from lawful guardianship of her parents and then committed forcible sexual intercourse with her. Ultimately, the applicant/accused was

convicted for the offence punishable under Sections 363, 366(A) of the Indian Penal Code and under Section 4 of the Protection of Children from Sexual Offences Act, 2012.

4 Nature and circumstances in which the crime is committed is relevant consideration while releasing the accused on bail. In the case in hand, averments are to the effect that the applicant has committed rape on minor female child and hence I do not find the case to be fit for enlarging the applicant on bail during the pendency of the appeal.

5 At the same time, considering the fact that the appeal is already fixed for final hearing, the hearing of the appeal is expedited. It be listed for final hearing in the week commencing from **21st November 2016**.

(A. M. BADAR J.)