

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

CRIMINAL APPLICATION NO. 1418 OF 2017

Sunil s/o. Baburao Jadhav .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.Sayyed Tauseef Yaseen, Advocate for the applicant.

Mr.S.W. Munde, A.P.P. for respondent/State.

CORAM : T.V. NALAWADE, J.

DATED : 19.04.2017

P.C. :-

1. When this Court expressed that this Court is not inclined to grant relief, learned Counsel for the applicant, on instructions, submits that he wants withdraw the proceeding.

2. During arguments, it was brought to the notice of this Court that in Criminal Application No.6323 of 2016, another Hon'ble Judge of this Court granted bail to mother-in-law and husband of the complainant. It appears that it was not brought to the notice of the Hon'ble Judge that not only offences punishable under sections 498-A, 506 of the Indian Penal Code and under some provisions of Immoral Traffic (Prevention) Act, 1956 and the Protection of Children from Sexual Offences Act are

committed, but offence punishable under section 376 read with section 107 of the Indian Penal Code is also committed. It appears that such circumstance was not brought to the notice of the Court, though offence is punishable under the provisions of Protection of Children from Sexual Offences Act, 2012. This itself is sufficient to show that section 376 of the Indian Penal Code is applicable. If a girl, who has not even completed 15 years of age, was made to land in the prostitution business, the person can be tried for the offence punishable under section 376 read with section 107 of the Indian Penal Code and there will be no question of consent, considering the age of the victim girl.

3. With the above observations and with the liberty to the State to file application for cancellation of bail granted to other accused, this Criminal Application is disposed of as withdrawn.

4. Copy of this order be sent to the Secretary, Law and Judiciary Department.

[T.V. NALAWADE, J.]