

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

**CRIMINAL APPLICATION NO. 1970 OF 2017  
IN  
CRIMINAL APPEAL NO. 157 OF 2017**

Vikas Diwansingh Patil

**..... APPLICANT**

**V E R S U S**

The State of Maharashtra

**..... RESPONDENT**

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Mr. R.V.Gore, Advocate for Applicant.

Smt. S.S.Raut, A.P.P. for Resp. - State.

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**CORAM : V.L.ACHLIYA, J.**

**DATE : 12th JUNE, 2017**

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**ORDER :**

1. The applicant/appellant has taken out this application seeking suspension of sentence and release on bail during pendency of Appeal on the grounds set out in the application.

2. Mr. R.V.Gore, learned counsel for the applicant strenuously contended that the Judgment and Order passed by the trial Court is perverse. He submits that the entire prosecution story does not appear to be natural. He submits that as per the prosecution case, the incident was occurred at about 5.00 p.m. in the locality where number of houses were located adjacent to the house where the incident occurred. He further submits that the grandfather of the prosecutrix was also present in the house. He contended that the applicant is falsely implicated in this case on account of civil dispute between the grandfather of the complainant and defence witness Ananda. Learned counsel submits that the applicant was attesting witness to the agreement to sale entered between the grandfather of the victim and Ananda. He further submits that there is no corroboration to the testimony of the prosecutrix from independent witness. Learned counsel submits that entire prosecution story appears to be false and concocted. He submits that the injuries as noticed by the Medical Officer are possible for the reason other than the reason stated by the prosecutrix. He further submits that during the trial, the applicant was on bail. He further submits that the applicant has no previous antecedents. He submits that the applicant has not mis-used the condition of bail.

3. On the other hand, learned A.P.P. strenuously opposed the application with the contention that the testimony of the prosecutrix is duly corroborated through the medical evidence. She submits that the reasons and findings recorded by the trial Court are cogent and consistent with the evidence on record. She submits that there was no reason for the girl aged about 13 years to make false complaint against the applicant.

4. On due appreciation of submissions advanced in the light of record and proceedings of the case, I am of the view that no case is made out to suspend the sentence and release the applicant on bail. The testimony of the prosecutrix is duly supported by medical evidence. The prosecutrix who was 13 years of age was sexually assaulted by the accused by taking advantage that her parents were not present in the house. The prosecutrix has specifically deposed that the applicant entered her house when her parents were not present and caught her hands and tried to remove her necker. When she tried to raise shouts, the applicant pressed her mouth. She has categorically deposed that while the applicant tried to remove her necker, she sustained scratches on her waist and hand. The complaint in respect of the incident was

lodged immediately after the incident. She was referred for medical examination. Dr. Yogesh Pawar [P.W. 5] who has examined the prosecutrix, has categorically deposed that on medical examination of the prosecutrix, following injuries were found on her body.

[i] Crescentic nail scratches, red and brown in colour, on right hand palm, dorsal aspect – simple in nature, caused by finger nail.

[ii] Multiple crescentic nail scratches, of size 2 x 0.1 cm. and 3 x 0.1 cm. Vertical in shape and red and brown in colour, on lower abdomen, pelvic region and right side 2 cm. lateral to pubic symphysis, simple in nature and caused by finger nail.

5. Thus, considering the overall facts of the case and evidence adduced by the prosecution, I am of the view that there is *prima facie* evidence to connect the applicant with the offence with which he has been charged and convicted. Looking to the nature of offence and growing incidents of offences against minor girls in the society, I am not inclined to entertain the application. In

order to decide the matter on merit, I am inclined to expedite the hearing of the case. Accordingly, the application is rejected. Hearing of the Appeal expedited.

6. It is clarified that the observations as made above, are made for the limited purpose for deciding the bail application and the observations so made shall not be construed as observations made as to the merit of the case.

7. Record and proceedings with paper book already received. List the Appeal for final hearing on 10/07/2017.

**[V.L.ACHLIYA, J.]**