

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

**CRIMINAL APPLICATION NO.2181 OF 2017
IN
CRIMINAL APPEAL NO.178 OF 2017**

Ishwar Baburao Marathe .. Applicant

Versus

The State of Maharashtra .. Respondent

Mr.S.V. Suryawanshi, Advocate h/f Mr.Abhijeet P. Avhad,
Advocate for the applicant
Mr.K.S. Hoke Patil, APP for the respondent/State

**CORAM : V.L.ACHLIYA, J.
DATED : 04.05.2017**

P.C. :-

. The applicant has moved this application seeking suspension of sentence and release on bail during pendency of the appeal.

2. Heard learned counsel for the applicant and APP for the State and perused the judgment and order dated 06.04.2017.

3. The applicant was prosecuted for committing offence under Sections 342, 354, 506 and 510 of the Indian Penal Code and Section 3(1)(x) of the Scheduled Caste and Scheduled Tribes (Prevention of the Atrocities)

Act, 1989 with an allegation that on the day of incident the accuse called the victim girl aged about 10 years in his house and asked give him drinking water. He locked the door of his house and forcibly put her on the bed and pulled her nicker and also pulled down zip of his pant and outraged her modesty. The victim girl has resisted the act of the accused and any how ran out of the house and narrated the incident to the persons present outside the house. On the basis of complaint lodged by the uncle of victim the aforesaid offences came to be registered.

4. On conclusion of the trial the applicant held guilty of the offences under Sections 354, 342 & 506 of the Indian Penal Code and separate sentences came to be awarded for each offences. The maximum sentence awarded is R.I. for one year.

5. Learned counsel for the applicant submits that the applicant has been falsely implicated in the case. He submits that there is no cogent, convincing and reliable evidence to sustain the conviction. During the trial the applicant was on bail. The trial Court has suspended the sentence to enable the applicant to prefer the appeal.

6. On the other hand the learned APP has opposed

the application with contention that there is strong evidence to connect the applicant for which he has been convicted by the trial Court. He submits that if the applicant released on bail there is every likelihood that he may abscond or may indulge into similar type of offence. He therefore urged to reject the application.

7. Having appreciated the submissions advanced I am of the view that pending disposal of the appeal the applicant deserves to be enlarge on bail. The maximum sentence awarded is of one year. In case the sentence is not suspended and the applicant is not released on bail then there is every possibility that the appeal filed by the applicant may become infructuous. I am, therefore, inclined to allow the application and pass the following order.

ORDER

I) Application is allowed.

II) Pending disposal of appeal the execution of substantive sentence awarded to the applicant stands suspended subject to deposit of fine.

III] Pending disposal of appeal the applicant namely Ishwar Baburao Marathe be released on bail on his furnishing bail in the sum of Rs.50,000/- with one surety in like amount on the following conditions.

- a) The applicant shall mark his attendance before the Police Inspector, Jamner Police Station, Tq. Jamner, Dist. Jalgaon on every month of last day in between 10.00 am to 11.00 am. till final disposal of the appeal.
- b) The applicant shall furnish the names and addresses of his 3 close relatives with phone numbers.
- c) The applicant shall not cause threat to complainant and other prosecution witnesses.
- d) In the event of change in address the applicants shall intimate concerned Police Station as well as this Court.
- e) During pending of the appeal the applicant shall not involve in any criminal case.

IV) In the event of breach of any of

the conditions, the bail granted to the applicant liable to be canceled.

V) Bail to be furnished before the trial Court. In case the bail is not furnished before the trial Court within one week from the date of this order, the order of suspension of sentence stands re-called and canceled.

VI) The trial Court is directed to report the compliance of furnishing of bail within three weeks to this Court.

VII) The Police Inspector, Jamner Police Station, Tq. Jamner, Dist. Jalgaon is directed to submit the report of compliance of conditions of bail after every six months till final disposal of the appeal.

[V.L.ACHLIYA, J.]