

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPLICATION NO. 80 OF 2017
IN
CRIMINAL APPEAL NO. 1325 OF 2013

Nana @ Sandeep Tukaram Shinde ..Applicant/ Appellant

v/s.

The State of Maharashtra ..Respondents

Mr. P. G. Sarda for the Applicant.

Mr. H. J. Dedhia APP for the Respondent-State.

**CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : NOVEMBER 29, 2017.**

P.C.

1. The applicant herein who was an accused in Sessions Case No. 69 of 2012 has been convicted for the offence punishable under Section 376(2)(f) of Indian Penal Code and sentenced to undergo rigorous imprisonment for 10 years with fine of Rs.10,000/- in default to undergo rigorous imprisonment for one year. He has also been convicted for the offences under Section 366A and 506 of Indian Penal Code. The sentenced imposed in respect of those offences are to run concurrently. By this application, the applicant has sought suspension of execution of sentence and to release him on bail.

2. Heard the learned Counsel for the applicant and the learned APP for the State. Perused the records.

3. The applicant herein was charged for committing rape on a minor girl. The testimony of the prosecutrix prima facie reveals that her father was working as a labourer for the applicant at the construction site. Her testimony further indicates that the applicant herein had committed rape on her.

4. The prosecutrix was examined by PW8. He has stated that “her hymen was not intact. Hymen margins reddish with congestion present. White coloured secretion was seen in the vagina”. In his cross examination he has clarified that meaning of “not intact” is similar to “tear rupture” . The medical evidence prima facie corroborates the evidence of the prosecutrix.

5. As stated earlier, the prosecutrix is a 12 years old child. The evidence on record prima facie indicates that the applicant, who was the employer of her father had committed rape on her. The offence is of a serious nature. Considering the gravity of the offence, in my considered view, this is not a case for suspending the execution of sentence and or for releasing the applicant on bail. Hence, the

application is dismissed.

6. At this stage, the learned Counsel for the applicant submits that the hearing of the appeal may be expedited. The appeal is of the year 2013. Several other old cases, wherein the accused are in jail are pending for hearing. Hence no case is made out for expeditious hearing.

(ANUJA PRABHUDESSAI, J.)