

Rane

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APPEAL-538-2017
IN APPA-881-2017 (sr.7)
4.7.2017

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 538 OF 2017

Ganesh Kisan Navale

.....Appellant

V/s.

The State of Maharashtra

.....Respondent

Mr. Shailesh S. Kharat, Advocate for the appellant.

Mrs. G.P. Mulekar, APP for the respondent, State.

CORAM :-

SANDEEP K. SHINDE, J.

DATE :-

4th JULY, 2017.

P.C. :-

1. Admit. Call for records and proceedings.

(SANDEEP K. SHINDE, J)

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APPEAL-538-2017
IN APPA-881-2017 (sr.7)
4.7.2017

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 881 OF 2017
IN
CRIMINAL APPEAL NO. 538 OF 2017

Ganesh Kisan Navale

.....Applicant

V/s.

The State of Maharashtra

.....Respondent

Mr. Shailesh S. Kharat, Advocate for the applicant.

Mrs. G.P. Mulekar, APP for the respondent, State.

CORAM :-

SANDEEP K. SHINDE, J.

DATE :-

4th JULY, 2017.

P.C. :-

1. The applicant has been convicted and sentenced to undergo rigorous imprisonment for ten years and pay fine of Rs.1,000/- for committing an offence punishable under Section 376 (f),(i) of the Indian Penal Code, as well as, under Sections 468 and 10 of the Protection of Children from Sexual Offences Act, 2012 by

the Special Judge, District Court, Pune in Special Case No. 25 of 2014.

2. The applicant seeks bail. Heard Mr.Kharat, learned Counsel appearing for the applicant and Mrs. Mulekar, the learned APP for the State.

3. Perused the evidence on record. The incident is dated 1st January, 2015 when the victim of 11 years age had faced a sexual assault at the hands of the applicant. She reported this fact to her class teacher soon after the incident. The evidence of the class teacher has been recorded. The first informant is the mother of the victim to whom the incident was disclosed and without wasting any time, the FIR was lodged on the same day. There is evidence of P.W.6, Dr. Uma Wankhede. It shows, soon after the incident, the victim is examined by one, Dr. Saumya V.G. and she found evidence of sexual assault. In the trial court, the victim was also examined. Besides, there is a statement of the victim recorded by the Judicial Magistrate First Class under Section 164(5) of the Indian

Penal Code. Though, it is at a belated stage, I see no reason to disbelieve her evidence which is amply corroborated by the evidence of her teacher to whom she had disclosed the incident.

4. Mr. Kharat, has pointed out certain discrepancies in time, as well as, defects in the recovery of the motorcycle. He also points out certain omissions in the statements of the Teacher as to about who had called the mother of the victim to the School. In my view, such discrepancies, are wholly irrelevant at this stage. There is dependable evidence on record. I see no reason to disbelieve the evidence of the victim, her mother, her class-teacher and the evidence of the Doctor. That for the aforesaid reason, there is no merit in the application. The Application is accordingly dismissed.

(SANDEEP K. SHINDE, J)