

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

**CRIMINAL APPLICATION NO. 1238 OF 2016
IN
CRIMINAL APPEAL NO. 655 OF 2016**

Pravin @ Khanna Pavlas Waidande	...	Applicant
V/s.		
The State of Maharashtra	...	Respondent

Mr.D.D. Rananaware for the Applicant.
Mrs.A.S. Pai, APP for the Respondent-State.

**CORAM : RANJIT MORE &
DR.SHALINI PHANSALKAR-JOSHI, JJ.**

DATE : 22nd MARCH, 2017.

P.C. :

1] Heard Mr.Rananaware for the Applicant and Mrs.Pai,
learned APP for the State.

2] This Application is filed for bail in the above appeal. The
Applicant is the accused No.1 along with accused No.2 another
accused came to be convicted for an offence punishable under
Section 376(d), 363, 366A, 342, 323 and 506 read with 34 of IPC.
The conviction is based on the evidence of the prosecutrix.

3] We have perused the evidence of the prosecutrix and at

this stage, we find no reason to disbelieve the same. The Applicant was in custody during the pendency of the trial. Learned counsel for the Applicant tries to submit that there is delay in lodging the FIR. He has also challenged the credibility of the prosecutrix. However, in our considered opinion, it is settled position in law that delay in lodging of the FIR itself is not fatal to the prosecution case. Moreover, in this case, she has explained delay. In this case, the appreciation of the prosecutrix's evidence cannot be done at this stage and same can be done only at the stage of final hearing. Moreover, one of the pieces of evidence is extra judicial confession made by accused before the Medical Officer.

4] Taking totality of the facts and circumstances, we are not inclined to grant any relief in the application and therefore, the same is accordingly dismissed.

[DR.SHALINI PHANSALKAR-JOSHI, J.]

[RANJIT MORE, J.]