

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) NO.134 OF 2017

IN

CRIMINAL APPEAL NO.71 OF 2017

Sheikh Hafeez @ Bhurya @ Bhuru s/o Sheikh Hasan

..VS..

The State of Maharashtra, through Senior Police Station Inspector, Police Station
Lakkadganj, Nagpur

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders
.....

Court's or Judge's Order

Mrs. S.P. Dhotre, Counsel for the applicant.

Mrs. K.H. Deshpande, Addl.P.P. for the State.

CORAM : P.N. DESHMUKH, J.

DATED : MARCH 24, 2017.

This is an application for suspension of substantive sentence impose upon applicant and for bail.

Heard learned counsel for the applicant and learned Additional Public Prosecutor.

Learned counsel for the applicant has submitted that accused is falsely implicated by complainant, who is mother of prosecutrix as complainant is a well known landlady where applicant was residing as tenant at the time of incident and at the instance of landlady as she wanted premises to be vacated by applicant is falsely implicated. To substantiate above contentions, learned counsel has

further submitted that from medical evidence as it is stated that there were no injuries found on the person of prosecutrix and as her hymen was also certified to be intact, no definite opinion of sexual assault is given and thus contended that in view of facts as aforesaid, application be allowed releasing applicant on bail, pending Trial.

It appears that applicant is convicted for the offence punishable under Section 5(m) of the Prevention of Children from Sexual Offences Act, 2012 and is punished under Section 6/18 of the said Act for rigorous imprisonment for seven years and to pay a fine of Rs.10,000/-, in default, to suffer rigorous imprisonment for five months. No separate sentence for the offences punishable under Sections 376(2)(i)/511 of the Indian Penal Code is awarded.

Perusal of evidence on record reveals that prosecutrix, who is aged 12 years, had in clear term involved applicant to have sexually assaulted her in his house which was situated adjoining to house of prosecutrix. In fact, from her evidence it has come on record that prosecutrix used to visit house of applicant to meet her friend Sabina, who were of same age studying in same class.

Evidence of prosecutrix is fully corroborated by evidence of her mother, in fact, she is a witness to the incident of sexual assault by applicant as according

to her, when she went to house of applicant in search of prosecutrix, they were found in compromising position. The history narrated by prosecutrix at the time of her medical examination also establish involvement of applicant in present crime.

In that view of the matter, as there is sufficient evidence against applicant, application is liable to be rejected by passing orders as under:

Application is rejected, however appeal is expedited.

JUDGE

!! BRW !!

C E R T I F I C A T E

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.
(Personal Assistant)

Uploaded on :- 30/3/2017