

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.
CRIMINAL APPLICATION (APPA) NO. 453 OF 2017
IN
CRIMINAL APPEAL NO.270 OF 2017

(Rahul S/o Gautam Jagtap..vs..State of Maharashtra, through PSO.PS.Hudkeshwar,Nagpur)

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

Court's or Judge's orders.

Shri C.R.Thakur, Advocate for applicant.
Shri N.B.Jawade, A.P.P. for State-non-applicant.

CORAM : V.M. DESHPANDE, J.
DATED : AUGUST 4, 2017

This application is taken up for hearing in view of the receipt of record and proceedings as directed by this Court on 28/6/2017.

Heard learned counsel for applicant and learned A.P.P. for State-non-applicant.

The applicant is convicted by Additional Sessions Judge, Nagpur on 2/5/2017 in S.T.No.205/2015 for the offence punishable under Section 376 of the Indian Penal Code and sentenced to suffer R.I. for seven years and to pay fine of Rs.2000/- and in default of payment of fine amount, further to suffer S.I. for three months and R.I. for two years and to pay fine of Rs. 1000/- and in default of payment of fine amount, further to suffer S.I. for one month in respect of the conviction for the offence punishable under Section 328 of the Indian Penal Code.

The prosecutrix who has lodged report(Exh.14) is more than aged about 32 years. There is delay of four days in lodging the F.I.R.(Exh.15). Prima facie, the explanation

appears to be improbable.

The medical report and scientific evidence also are in negative.

During the course of trial applicant was on bail throughout and at no point of time he has misused the liberty granted to him. Looking to the pendency of the old appeals before this Court it will not be possible for this Court to take up final hearing of this appeal in near future. The sentence awarded to the applicant is for fixed duration. In that view of the matter, I pass the following order.

ORDER

- I) The application is allowed.
- II) The substantive jail sentence imposed upon the applicant by judgment and order dated 2/6/2017 in S.T.No.205/2016 shall remain suspended during the pendency of the appeal.
- III) The applicant be released on his executing P.B of Rs. 5000/- with one solvent surety in the like amount.
- IV) The learned Court below before whom bail bonds will be executed to ensure that entire fine amount is paid by the applicant before execution of the bail bonds and before his release on bail.
- V) The applicant shall remain present personally before this Court at the time of final hearing.
- VI) With this the application is disposed of.

JUDGE