

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

Criminal Application No.765 of 2016
in
Criminal Appeal No.435 of 2016

(Hemraj Mohanrao Youvnate

vs.

The State of Maharashtra, through P.S.O. Jalalkheda, District Nagpur)

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Office Notes, Office Memoranda of Coram, appearances, Court's orders of directions and Registrar's orders	Court's or Judge's orders
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CORAM : KUM. INDIRA JAIN, J.

DATE : APRIL 6, 2017.

Heard Shri C.R. Thakur, learned Counsel
for applicant and Ms. T.H. Udeshi, learned Additional
Public Prosecutor for the State.

Applicant-accused is convicted of the
offences punishable under Sections 363 and 376(2)
(j) of the Indian Penal Code and Section 4 of the
Protection of Children from Sexual Offences Act. He
is sentenced to suffer rigorous imprisonment for five
years and fine of Rs.2,000/-, in default to suffer
simple imprisonment for three months for the
offence punishable under Section 363 of I.P.C.,
rigorous imprisonment for ten years and fine of
Rs.5,000/-, in default to suffer simple imprisonment

for three months for the offence punishable under Section 376(2)(j) of I.P.C. and rigorous imprisonment for ten years with fine of Rs.10,000/-, in default to suffer simple imprisonment for six months for the offence punishable under Section 4 of the Protection of Children from Sexual Offences Act.

With the assistance of the learned Counsel for parties, this Court has gone through the evidence of prosecutrix and Medical Officer. Admittedly, prosecutrix was 16 plus at the time of incident. She stated that on 01/02/2016 at about 07:00 a.m., she reached Bus-Stop Tadipaoni. Accused was present on Bus-Stop. He asked her to perform marriage with him. She refused for the same. On that, accused threatened to kill or alternatively he would commit suicide. She stated that he forcibly took her on his motorcycle to village Rajura Bazar and thereafter to his uncle's house in slum area of Warud, District Amravati. They stayed there for eight days. According to her, during the period of stay, many times accused committed sexual intercourse with her.

So far as medical evidence is concerned, it appears from the evidence of Medical Officer Dr. Neetu Singh [PW-5] that no fresh injuries were noticed on the private part of victim. C.A. Report is in the negative. Considering the marginal age of prosecutrix, her conduct in moving from place to place with the accused, staying with him for days together, negative C.A. Report and absence of fresh injuries on the private part of victim, this Court is inclined to suspend sentence and release the applicant on bail. Hence, the following order :

- (i) Criminal Application No.765/2016 is allowed.
- (ii) During pendency of appeal, substantive sentence of imprisonment is suspended.
- (iii) Applicant-Hemraj Mohanrao Youvnate is released on bail on his furnishing Personal Bond in the sum of Rs.20,000/- with two sureties in the like amount.
- (iv) Bail before the trial Court.

JUDGE