

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

**CRIMINAL APPLICATION NO. 765 OF 2018
IN
CRIMINAL APPEAL NO. 544 OF 2018
WITH
CRIMINAL APPLICATION NO. 764 OF 2018**

Vilas Maruti Sherkhane ...Applicant.

V/s.

The State of Maharashtra and anr. ... Respondents

Mr. S.D. Sherkhane for the Applicant in Cri. Application Nos. 765/2018 and 764/2018.

Ms. Anjali Patil for the Appellant in Appeal No.544/2018..

Mr. A.R.Patil, APP for the Respondent/State.

CORAM : A.S.GADKARI, J.

DATE : 10th September, 2018

P.C.:

1. These are applications for suspension of sentence and for releasing the applicant on bail respectively.
2. Heard the learned counsel for the applicant and the learned APP. Perused the record.
3. It is the case of the prosecution that, the applicant who was neighbour of the prosecutrix took undue advantage of her minor age, induced her and took her at an isolated place and thereafter committed forcible sexual assault on her. The applicant thereafter gave threats to the

prosecutrix that, if she discloses the said fact to anybody he will defame her in the society and by extending threats thereafter further committed sexual assault on her from time to time.

4. It is the well settled position of law as has been enumerated by the Hon'ble Supreme Court in the case of Aman Kumar and anr. vs. State of Haryana (AIR 2004 SC 1497), that the prosecutrix complaining of having been a victim of the offence of rape is not an accomplice after the crime. That there is no rule of law that her testimony cannot be acted without corroboration in material particulars. She stands at a higher pedestal than an injured witness. That in the later case, there is injury on the physical form, while in the former it is both physical as well as psychological and emotional. The same view is further expressed by the Supreme Court in the case of State of Himachal Pradesh vs. Shree Kant Shekari (AIR (2004) SC 4404).

The evidence on record clearly indicates the complicity of the applicant as the preparater of the crime. The applicant has been convicted under Section 3 and 4 of the Protection of Children from Sexual Offences Act and sentenced to suffer rigorous imprisonment of 10 years.

5. After perusing the record this Court is of the view that, the applicant

does not deserve to be released on bail at this stage.

6. Applications are accordingly rejected.

(A.S.GADKARI, J.)