

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY**

**CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.1375 OF 2018  
IN  
CRIMINAL APPEAL NO.1002 OF 2018**

Bharat Tipanna Pathrut ... **Applicant**  
V/s.

The State of Maharashtra ... **Respondent**

Mr.Sagar Tambe i/b. Mr. Ritesh Thobde for the applicant.

Mr.S.V. Gavand, APP for the respondent/State.

**CORAM : A.M.BADAR J.**

**DATED : 21<sup>st</sup> AUGUST 2018.**

**P.C. :**

1. This is an application for suspension of sentence and for releasing the applicant /accused on bail during pendency of the appeal filed by him. The applicant / accused is convicted of offence punishable under Section 376(1) of the Indian Penal Code and he is sentenced to suffer rigorous imprisonment for seven years apart from payment of fine of Rs.5000/- and in default to undergo rigorous imprisonment for six months.

2. Heard the learned Advocate appearing for the applicant as well as the learned Additional Public Prosecutor appearing for the respondent/State.

3. According to the prosecution case, the prosecutrix is fully grown adult lady who visited Solapur and stayed for pursuing her occupation as singer. At Solapur, she started residing with the applicant/accused. They lived as a couple for a period about one month and twenty days. Thereafter, as seen from the case of prosecution that the prosecutrix lodged a report that on 6<sup>th</sup> June, 2015 alleging that the applicant came, assaulted and abused her and committed forcible sexual intercourse with her.

4. The prosecutrix refused to undergo medical examination. Not only that she failed to appear before the Trial Court for adducing evidence. However, the learned Trial Court has convicted the applicant/accused only on the basis of the First Information Report lodged by the prosecutrix which was proved by the Investigating officer as well as on the basis of the statement

of prosecutrix recorded under Section 164 of the Criminal procedure Code. During the trial, the applicant was on bail and he has not mis-used his liberty.

5. In this view of the matter, as there is no substantive evidence and case of the prosecution itself depicts consensual sexual relationship between two adult persons, the applicant deserves to be released on bail. Therefore, the order;

**:: ORDER::**

- (i) The application is allowed.
- (ii) Substantive sentence of imprisonment imposed on the applicant is suspended and he is directed to be released on bail on his executing P.R. Bond in the sum of Rs.15,000/- and on furnishing surety in the like amount by him.

**(A.M.BADAR J.)**