

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.1603 OF 2018

IN

CRIMINAL APPEAL NO.824 OF 2018

Suresh Maruti Teke ... **Applicant**

V/s.

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

.....

Mr.Satyavrat Joshi, Advocate for the Applicant.

Mr.P.H.Gaikwad-Patil, APP for the Respondent/State.

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CORAM : A.M.BADAR, J.

DATED : 17th OCTOBER 2018.

P.C. :

1 This is an application for suspension of sentence and releasing the applicant/accused on bail during pendency of the appeal filed by him.

2 The applicant/accused is convicted for the offence punishable under Section 376(2)(f) of the Indian Penal Code. He is sentenced to suffer rigorous imprisonment for twelve years apart from direction to pay fine of Rs.5,000/- and in default to undergo simple imprisonment for one month.

3 Heard the learned Advocate appearing for the applicant/accused at sufficient length of time. He took me through the evidence of P.W.No.1 Manisha, who happens to be First Informant and mother of the victim child. The learned Counsel for the applicant further referred to the evidence of victim child, who is examined as P.W.No.2, so also the evidence of P.W.No.6 Dr.Jaywant Patil. He argued that medical evidence is not at all supporting the case of the prosecution. The same is coming on record by way of omissions. The Medical Officer was not in a position to give opinion about forcible sexual intercourse with the victim child. It is further argued that sentence imposed on the applicant is too harsh and he is behind bar from the year 2012.

4 The learned Additional Public Prosecutor opposed the application by contending that there is voluminous evidence to establish guilt of the applicant/accused in the crime in question.

5 I have carefully considered the rival submissions and also perused copies of depositions of prosecution witnesses.

6 The victim of the crime in question is P.W.No.2. At the relevant time, she was just twelve years of age. Her version regarding commission of forcible sexual intercourse with her is gaining corroboration from the medical evidence. P.W.No.6

Dr.Jaywant Patil had examined her within few hours of the incident. He noticed stains of blood on private part and thigh of the victim. The Medical Officer further noticed tear on vagina of the victim from which there was bleeding. Clothes of the victim were found to be stained with blood. The C.A.Report to that effect is on record.

7 Considering the fact that the applicant/accused is proved to have committed rape on a female child aged about 12 years, no case for grant of bail is made out. Therefore, the Order :

ORDER

- (i) The application is rejected.
- (ii) Hearing of the appeal is, however, expedited.
- (iii) Liberty to circulate the matter is granted on receipt of Record and Proceedings.
- (iv) The application is disposed of accordingly.

(A.M.BADAR J.)