

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO.94 OF 2017

IN

CRIMINAL APPEAL NO.223 OF 2017

RAJU @ PRALHAD VITTHAL NAIK)...APPLICANT

V/s.

THE STATE OF MAHARASHTRA)...RESPONDENT

Ms.Nasreen Ayubi, Appointed Advocate for the Applicant.

Mr.Prashant Jadhav, APP for the Respondent - State.

CORAM : A. M. BADAR, J.

DATE : 20th FEBRUARY 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. The applicant/accused is convicted of offences punishable under Sections 376(2)(i) and 377 of the Indian Penal Code and under Section 6 of the Protection of

Children from Sexual Offences Act as well as under Section 3(1)(iii) and 3(1)(xi) of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act. He has been sentenced to suffer rigorous imprisonment for 15 years apart from directing him to pay fine and to undergo default sentence on failure to pay fine for offences punishable under Sections 376(2)(i) of the Indian Penal Code and Section 6 of the Protection of Children from Sexual Offences Act. Lesser sentences are imposed on other counts. Those are directed to run concurrently.

2 I have heard Miss Nasreen Ayubi, the learned Advocate appearing for the applicant/accused. She argued that evidence of the PW2, who is alleged victim of the crime in question, is not corroborated by the medical evidence available on record and therefore, the applicant/accused is entitled for bail.

3 The learned APP supported the impugned judgment and order and contended that the applicant/accused is not entitled for bail.

4 I have carefully considered the rival submissions and also perused the Record and Proceedings. The PW2 is the female child, who is alleged victim of the crime in question. She has deposed in detail about the penetrative sexual assault on her by the applicant/accused. Her evidence is corroborated by the evidence of PW1 Maya, who is her mother. She deposed about the narrations of her female child and subsequent conduct of the present applicant/accused.

5 Considering the evidence of the PW2 – minor female child, which contains details of the act of sexual assault on her by the present applicant/accused, I am of the opinion that no case for grant of bail is made out. Hence the following order :

ORDER

- i) The application is rejected.
- ii) However, considering the fact that the appeal is ripe for hearing and as the paper book is ready, hearing of the appeal is expedited.

(A. M. BADAR, J.)