

*Nalawade*FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL BAIL APPLICATION NO.451 OF 2018

IN

CRIMINAL APPEAL NO.284 OF 2017

Dhyaneshwar R. Bhalerao vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr.A.Y.Patil for the Applicant.

Mr.A.R. Kapadnis, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.

DATE : 27th March, 2018

P.C.

1. This is an application for suspension of sentence and for releasing the applicant on bail.
2. Heard Shri. Patil, learned counsel for the applicant and the learned APP. for the State.
3. The applicant is convicted under Sections 363 and 376(2)(h)(i) of the Indian Penal Code and under Sections 4,6,8 and 10 of the Protection of Children from Sexual Offences Act, 2012 and is sentenced to suffer maximum rigorous imprisonment for ten years by the learned Ad-hoc District Judge-1 and Additional Sessions Judge, Khed Rajgurunagar, District Pune.
4. perusal of the evidence of the first informant i.e. the

prosecutrix would indicate that on the date of alleged offence i.e. on the date of elopement of the prosecutrix with the applicant, she was 16 years of age and the applicant was 18 years of age. That, the prosecutrix was having acquaintance with the applicant. That the applicant gave promise to marry with the prosecutrix and thereafter on the date of incident in the wee hours of 13.10.2015 she at her own wish eloped with the applicant. That, the applicant thereafter took the prosecutrix to his maternal aunt's house at Jalgaon and they stayed there. On 14.10.2015 at about 8.00 a.m. the parents of the applicant came at the said place at Jalgaon and thereafter the applicant was taken into the custody by the police. After perusing the evidence on record, prima facie, it appears that it is because the prosecutrix was below the age of 18 years, the provisions of the Protection of Children from Sexual Offence Act are applied by the prosecution. The record prima facie indicates that, on the date of incident the prosecutrix had attained the age of understanding and discrimination and she eloped with the applicant at her own wish and accompanied him at Jalgaon.

5) In view of the above, I am inclined to release the applicant on bail.

Hence, the following order.

- a) During the pendency of the present appeal, the substantive sentence imposed upon the applicant is suspended.
- b) During the pendency of the appeal, the applicant be released on bail on his furnishing PR bond of Rs.25,000/- with one or two solvent local sureties in the like amount.
- c) During the pendency of appeal, the applicant shall mark his presence before the Trial Court on every first Monday of the month between 11.00 a.m. to 2.00p.m. If the said first Monday is Court holiday/public holiday, the applicant shall mark his presence on immediate next day.
- d) Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)