

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

**CRIMINAL APPLICATION NO.1171 OF 2018
IN
CRIMINAL APPEAL NO.898 OF 2018**

Deepak Prabhakar Sonavane & anr. ... **Applicants**
V/s.

The State of Maharashtra & anr. ... **Respondents**

Mr.Nitin Sejpal for the applicant.

Ms.Anamika Malhotra, APP for the respondent/State.

CORAM : A.M.BADAR J.

DATED : 2nd AUGUST 2018.

P.C. :

1. This is an application for suspension of sentence and for releasing applicants/accused nos.2 and 3 on bail during pendency of the appeal filed by them.

2. The applicants were convicted of the offences punishable under Sections 366 and 506 of the Indian Penal Code and they are sentenced to suffer rigorous imprisonment for seven years and one

year respectively on each count apart from imposition of fine and default sentence of one year for the offence punishable under Section 366 of the Indian Penal Code.

3. Heard the learned Counsel appearing for the applicants. He argued that during the pendency of the trial, the applicants were on bail and they have not misused their liberty. The learned Counsel further drew my attention to evidence of alleged victim of the crime in question and submitted that limited role of making the alleged victim of the crime in question to sit in vehicle is attributed to the applicants. Except this according to the prosecution case no overt act is attributed to the applicants.

4. The learned Additional Public Prosecutor opposed the application by contending that the present applicants not only abducted the victim of crime in question but have also aided main accused in commission of offence of rape on the victim.

5. I have carefully considered the rival submissions and also perused the copies of the deposition of prosecution witnesses. PW1/Victim lady has deposed that on the say of the accused no.1

Kishor Mhatre she had gone near vehicle in which the said accused Kishor Mhatre was sitting. She turned down his request to sit in his Scorpio Vehicle. However, two persons who were inside in that vehicle pulled her inside the vehicle. They thereafter alighted from the vehicle after traveling short distance. This role is attributed to the applicant in the crime in question. *Prima facie*, it is not seen from evidence that this act was done in order to abet the principal accused in commission of offence of rape on the prosecutrix. They were on bail during the pendency of the trial. It is not seen that they had misused their liberty. Therefore, the order;

:: ORDER ::

- (i) The application is allowed.
- (ii) Substantive sentence of imprisonment imposed on the applicants is suspended and they are directed to be released on bail on their executing P.R. Bond in the sum of Rs.15,000/- each and on furnishing surety in the like amount by each of them.
- (iii) As a condition of this order, the applicants should not

contact prosecutrix or her relatives in any manner and
they should not repeat commission of similar offence
in future.

(iv) The application stands disposed of accordingly.

Vina
Arvind
Khadpe

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signed by
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(A.M.BADAR J.)