

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPLICATION NO.1808 OF 2018  
IN  
CRIMINAL APPEAL NO. 1282 OF 2018**

Akshaya Narayan Jadhav  
Age: 19 years, Occ. : Service,  
R/o : Soni, Taluka Miraj,  
District Sangli

.... Applicant

Vs.

The State of Maharashtra  
(At the instance of Miraj Police Station)  
District Sangli.

.... Respondent

Mr. Kuldeep S. Patil for the Applicant.  
Mr. S.S. Pednekar APP for the State.

***Coram : Smt. Sadhana S. Jadhav, J.***

***Date : 30<sup>th</sup> November 2018***

P.C.:

1            This is an application under Section 389 of Code of Criminal Procedure seeking suspension of sentence imposed upon the applicant in Special Case No. 80 of 2014 by the Special Judge and Additional Sessions Judge-3, Sangli vide judgment and order dated 3<sup>rd</sup> October 2018. The applicant is convicted for the offence

punishable under Section 376 (2)(i) of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for ten years with a fine of Rs.5,000/-, in default to suffer simple imprisonment for one month. The accused is also convicted for the offence punishable under Section 363 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment for three years and with fine of Rs.1,000/-, in default to suffer simple imprisonment for 15 days and both the sentenced to run concurrently.

2            Perused the substantive evidence of the survivor. It is clear from her evidence that the applicant was working with her in the shop namely Amrut Collection. The applicant was also barely 18 years old at the time of the incident. According to the complainant, her date of birth is 15<sup>th</sup> July 1999. She has deposed before the Court that the applicant had expressed his love for her. She had consented to marry him. They both belonged to different religion. On 5<sup>th</sup> January 2014, they had left for Ichalkaranji by bus. Thereafter they proceeded to Kolhapur. According to the survivor, she was ravished by the applicant during the night in an auto rickshaw. He had

agreed to marry her. Since they had eloped from the house they were in a hideout. Thereafter they proceeded to Belgaum. There they had visited a Mosque. They were to get married, however the mob gathered had restrained them from getting married. They were rescued by PW-6 Vasim Allabaksha Bepari.

**3** PW-6 has admitted in the cross-examination that he had enquired with the boy i.e. the present applicant, who was insisting the girl to go to home, but she was not ready. She seems to be annoyed because the mob, which had gathered at the mosque were assaulting the boy and she persistently told them that he was not at fault and they should not beat him. It is also admitted that PW-6 had called her parents to the mosque. They had started assaulting the girl and therefore PW-6 and others thought it fit not to send the girl with her parents. There was quarrel between the families of the boy and girl. The Police had taken the boy and girl to Camp police Station alongwith their relatives. He has also disclosed that the survivor i.e. the victim had not disclosed or uttered a single word against the boy either before the mob or before the Police. She

appeared to be in favour of the boy.

4            Learned counsel for the applicant submits that the age of the victim was seriously challenged and that several lacunae are brought on record. The applicant was on bail during the pendency of the trial. He has not committed breach of any conditions. He was taken into custody on 3<sup>rd</sup> October 2018. The applicant was hardly 19 years old at the time of incident. It appears to be a case of love affairs between the young boy and girl. In view of this, the substantive sentence imposed upon the applicant deserves to be suspended. Hence, the order :

#### **ORDER**

- i )            The application is allowed and disposed of.
- ii )           The substantive sentence imposed upon the applicant vide judgment and order dated 3<sup>rd</sup> October 2018 in Special Case No. 80 of 2014 is hereby suspended.
- iii)           The applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs.15,000/- with one or more solvent sureties in the like amount.

iv )           The applicant shall mark his presence before the Special Judge and Additional Sessions Judge-3, Sangli once in six months on the date assigned by the Special Judge.

v )           Upon failure to attend any two consecutive dates, the Special Judge shall report the same to the High Court and the prosecution would be at liberty to file an application seeking cancellation of bail.

**( *Smt. Sadhana S. Jadhav, J* )**