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

CRIMINAL APPEAL NO.959 OF 2017

Swapnil Janardhan Zugare	..Appellant
Versus	
The State of Maharashtra and another	..Respondents

Mr. A. U. Nikam i/by Mr. Ashish Satpute, Advocate for the Appellant.

Mrs. M. M. Deshmukh, APP for Respondent - State.

**CORAM: B. R. GAVAI &
SARANG V. KOTWAL, JJ.**

DATE: 14th JUNE, 2018

P.C.:-

1] This is an appeal filed under section 14A of the S.C. & S.T (Prevention of Atrocities) Amendment Act, 2015, challenging the order of rejection of application filed by the Appellant for grant of bail.

2] It is the prosecution case that, modesty of the victim was ravaged by three accused persons viz. Pintya @ Ramesh Subhash Padosa, Sunil Damu Umbarsada and Sameer Pandharinath. It is the prosecution case that, the Appellant alleged to have love affair with prosecutrix. On the fateful day, there was some event in the village. The prosecutrix had gone to answer nature's call alongwith her cousin. The

Appellant is alleged to have followed her and told her that, they would chitchat for a while. It is the prosecution case that, when the Appellant and the prosecutrix were chitchatting, three accused persons came there, forcibly took the prosecutrix and ravaged her modesty. In the said incident, the Appellant is also alleged to have been assaulted by the accused persons, as per the version of the prosecutrix. In such circumstances, the present Appellant would have been the best witness in order to support the prosecution case. However, we fail to understand as to how the Investigating Agency found it fit to implicate him as an accused. We are surprised with the reasoning given by the learned Sessions Judge while rejecting the application for bail.

3] Prima facie, we find that there is no material to implicate the present Appellant for the offence alleged.

4] Appeal is therefore allowed. The impugned order is quashed and set aside. Appellant is directed to be released on bail in the sum of Rs 10,000/- with one or two sureties in the like amount.

5] However, we direct the matter to be kept on 21/06/2018, so as to enable the Investigating Officer to appear before the Court and enlighten the Court as to on what basis the present Appellant is found to be fit to be implicated as an accused rather than witness.

(SARANG V. KOTWAL, J.)

(B. R. GAVAI, J.)