

IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR

CRIMINAL APPLICATION (APPA) NO.1099/2018

IN

CRIMINAL APPEAL NO.694/2018

Raju s/o Ganesh Uikey

..VS..

State of Mah., thr. PSO Mouda, Nagpur

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

.....
Shri N.S.Giripunje, Counsel for the applicant.
Shri A.M. Joshi, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : DECEMBER 19, 2018.

1. This is an application for suspension of substantive jail sentence and for grant of bail.
2. Heard learned counsel Shri N.S.Giripunje for the applicant and learned Additional Public Prosecutor Shri A.M. Joshi for the State.
3. By judgment and order of conviction dated 30.10.2017 passed by learned Additional Sessions Judge-3, Nagpur in Sessions Trial No.141/2004, the applicant was convicted for offences punishable under Sections 376 and 506 of the Indian Penal Code. For offence under Section 376 of the Indian Penal Code, the applicant was directed to suffer rigorous imprisonment for 7 years and to pay a fine of Rs.1000/- and default of

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payment of the fine amount to suffer simple imprisonment for one month; and for offence punishable under Section 506 of the Indian Penal Code he was directed to suffer rigorous imprisonment for 6 months and to pay a fine of Rs.500/- and default of payment of fine amount to suffer simple imprisonment for 15 days.

4. Though the prosecutrix is major, her evidence is that without her consent the applicant exploited her sexually.

5. Learned counsel for the applicant submits that Chemical Analyzer's Report is negative and there is a delay in lodging First Information Report (Exhibit 23) to the extent of 2 days.

6. *Prima facie*, in the First Information Report itself an explanation is offered by the prosecutrix herself for lodging the report at belated stage.

7. At this stage, it is not possible for this Court to express any final opinion that evidence of the prosecutrix does not inspire confidence. Further, though incident has taken place in the year 2003 and though the applicant was released on bail by the Court below, he jumped the bail and due to his absconsion the Trial lingered and only after Non Bailable Warrant in the year 2017, the Trial proceeded further.

8. The aforesaid facts show that the applicant has a tendency to jump bail. Therefore, I am not

inclined to grant bail in favour of the applicant.

9. Consequently, the criminal applications is rejected.

10. Since the applicant is in jail, Office is directed to prepare the paper-book and place the appeal for its final hearing.

11. The criminal applications stands disposed of as such.

JUDGE

!! BRW !!

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