

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 27 OF 2019
IN
CRIMINAL APPEAL NO. 24 OF 2019

Ambaji Hanmant Panchamgiri.	...	Applicant.
V/s.		
The State of Maharashtra.	...	Respondent.

Mr.Jaydeep D. Mane for the applicant.
Ms.P.P.Shinde, APP for the respondent- State.

CORAM : A.S.OKA AND A.S.GADKARI, JJ.

DATE : 13th February 2019.

P.C. :

The applicant- accused is seeking bail pending the hearing and final disposal of appeal. The conviction of the applicant is for the offence punishable under section 376 of Indian Penal Code (for short "IPC"). He has been sentenced to undergo life imprisonment.

2. The learned counsel appearing for the applicant has taken us through the evidence of prosecution witnesses and submitted that a serious doubt is created about veracity and truthfulness of the version of the prosecutrix. He would, therefore, submit that it is a fit case for enlarging the applicant on bail.

3. The learned APP opposed the application by pointing out that the evidence of the prosecutrix has been believed by the trial Court and, therefore, at this stage, the said evidence cannot be re-appreciated.

4. We have carefully perused the evidence of the witnesses. The age of the prosecutrix at the relevant time was about 29 years. Taking her evidence as correct, *prima facie*, there is a serious doubt created about truthfulness of her version. Even according to her evidence, the incident took place in a field which is next to the field of her parents. Even according to her case, her mother was present in the field of her parents. Her mother has not been examined. She claims that she was dragged by the respondent- accused to a place beneath a tree. The evidence of Dr.Dhuldev Thengal (PW4) does not support the prosecution story. No injuries were found on the person of the prosecutrix. Even about the sexual intercourse, PW4 stated that a clear opinion cannot be given. In the history given by the prosecutrix to PW4, she has stated that she knew the appellant for six years. The applicant was on bail during the pendency of the trial.

5. Considering the above circumstances, a case is made out for enlarging the applicant on bail. Accordingly, we pass the following order:

O R D E R

- (i) Pending the hearing and final disposal of the appeal, the sentence imposed on the applicant vide judgment and order dated 7th December 2018 passed by learned Additional Sessions Judge, Solapur in Sessions Case No.316/2014 stands

suspended and the applicant shall be enlarged on bail in the sum of Rs.15,000/- with one or two solvent local sureties in the like amount;

- (ii) The bail is granted subject to condition that the applicant shall report to the trial Court on every first Monday of January and July of every calender year at 11.00 a.m. till disposal of the appeal. If the such first Monday is a Court Holiday, the applicant shall report immediately on the next Court working day;
- (ii) Application is disposed of in the above terms.

(A.S.GADKARI, J.)

(A.S.OKA, J.)