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

***CRIMINAL APPLICATION NO.106 OF 2019
(For Bail)
IN
CRIMINAL APPEAL NO.1505 OF 2018***

Ajay Bhiku Kharva	...Applicant/Appellant
Versus	
The State of Maharashtra	...Respondent

Mr.D.G.Khamkar, for the Applicant/Appellant.

Mr.S.V.Gavand, A.P.P for the Respondent - State.

CORAM : REVATI MOHITE DERE, J.

DATE : 30th APRIL, 2019

P.C. :

1. Heard learned counsel for the parties.
2. By this application, the applicant seeks suspension of his sentence and enlargement on bail, pending the hearing and final disposal of his appeal.

3. Learned Counsel for the Applicant states that the medical evidence on record does not support the case of the prosecution that the prosecutrix was sexually assaulted.

4. Learned APP opposed the application.

5. Perused the evidence in particular the evidence of the prosecutrix (PW2), PW3 – Dr. A.M.Kamble, PW5 – Sandhya Kamble and PW6 – Usha Ingle, both neighbours who saw the applicant committing the act with the prosecutrix. The evidence of PW9 – Dr. Mukdha Jungari, also shows that the prosecutrix had given the history of sexual assault by a known person with force without her consent, multiple times. According to PW3 – Dr.Kamble, the age of the prosecutrix was between 11 to 12 years. The evidence of the prosecutrix (PW2) that she was sexually assaulted was corroborated by PW5 – Sandhya Kamble and PW6 – Usha Ingle, who saw the incident through a hole and witnessed the applicant sexually assaulting the prosecutrix. The medical case papers shows that there was injury to the hymen.

6. Considering the evidence on record, this is not a fit case to enlarge the applicant on bail.

7. Hence, the application is rejected and disposed of as such. However, the Appeal of the applicant is expedited. Once the paper book is ready, liberty is granted to the applicant to mention the matter for Final Hearing.

REVATI MOHITE DERE, J.