

Anand

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

BAIL APPLICATION NO. 457 OF 2018

IN

CRIMINAL APPEAL NO. 286 OF 2018

Krishna Gopal Isame

.Applicant

Vs.

The State of Maharashtra

.Respondent

Mr. H. D. Magar, Advocate, for the Applicant

Mr. P. H. Gaikwad, APP, for the Respondent – State

CORAM : REVATI MOHITE DERE, J.

DATE : 11.04.2019

P.C.

. 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 submits that the Applicant was arrested on 24.03.2015 and has been in custody since then. He submits that the Applicant has undergone more

than four years out of the five years imprisonment awarded by the trial Court. He submits that the Applicant has been falsely implicated in the said case and that there is no corroborative evidence to support the allegation i. e. of attempt to rape the victim. He submits that even the Doctor's evidence shows that no external or internal injuries were found nor was there any scratch marks on the person of the prosecutrix. He further submits that there is no C. A. Report to show that semen stains were found either on the clothes of the prosecutrix or on her person and hence, the Doctor has not given any conclusive final opinion.

4. Learned APP does not dispute the fact that the Applicant has undergone more than four years out of the five years imprisonment imposed upon him.

5. Perused the papers. The allegation as against the Applicant is that the Applicant took the prosecutrix, removed her underclothes and slept on her stomach and thereafter, discharged. The Doctor, who examined the prosecutrix has stated that he did not find any internal or external injuries or even a scratch on the

person of the prosecutrix. Nor is there any evidence to show presence of semen stains on the person of the prosecutrix. The Applicant has undergone more than four years out of the five years of imprisonment imposed by this Court. Paper book is not yet received.

6. Having regard to what is stated aforesaid, the Application is allowed. The Applicant's sentence is suspended and he is enlarged on bail, pending the hearing and final disposal of his Appeal, on the following terms & conditions :-

O R D E R

(i) The Applicant be enlarged on bail on furnishing P. R. Bond in the sum of **Rs. 25,000/-** with one or two local sureties in the like amount;

(ii) The Applicant shall report to the trial Court, **once in three months** on the day / date specified by the trial Court, till his Appeal is finally disposed of;

(iii) If there are two consecutive defaults in appearing before the trial Court, the learned Judge shall make a report to

the High Court and the prosecution would be at liberty to file an Application seeking cancellation of bail.

7. The Application is, accordingly, disposed of.

All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)