

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

**CRIMINAL APPLICATION NO. 478 OF 2019
IN
CRIMINAL APPEAL NO. 478 OF 2019**

Saifunnisa Shafi Ahmad Ansari	...Applicant
Vs.	
State of Maharashtra	...Respondent

- Mr. Vikas B. Shivarkar, Advocate for the Applicant.
- Ms. Pallavi Dabholkar, APP for the State/Respondent.

**CORAM: P.N.DESHMUKH, J.
DATE : 3rd OCTOBER, 2019**

P.C. :

1. This application is for suspension of sentence and for bail by original accused no. 2, who is convicted by the learned Additional Sessions Judge, Pune for the offences punishable under Sections 109 read with Section 376 of the Indian Penal Code. He is sentenced to suffer rigorous imprisonment for seven years and to pay fine of Rupees Five Thousand. In default of payment of fine, he shall suffer simple imprisonment for six months for the offence

punishable under Section 109 of the IPC and he is sentenced to suffer imprisonment for life and to pay fine of Rupees Ten Thousand. In default of payment of fine, he shall suffer simple imprisonment for one year.

2. Learned counsel for the applicant submitted that only role attributed to the applicant is of her in action inspite of having knowledge of original accused no. 1, who is her husband, to be in illicit relations with the prosecutrix, who is their daughter. It is contended in fact, it is the applicant herself who took prosecutrix to police station, where she lodged her report and accordingly offence came to be registered. It is, therefore, contended that considering the role as aforesaid attributed to the applicant, application be allowed imposing suitable conditions.

3. Learned APP strongly opposed the application on the ground that the applicant has deliberately not disclosed such fact to the police for long time inspite of prosecutrix informing her about the same and thus submitted that the application be rejected.

4. Considering the submissions advanced as aforesaid, it appears to be the case of prosecution that applicant as well as original accused no. 1 were working as labours and originally hailed from Uttar Pradesh. It has come in the evidence of prosecutrix that accused no. 1, inspite of being her father, taking advantage of her being alone in the house, was indulged in such activities which she claims to be bad things committed by him, as he used to sleep with her like 'husband and wife'. According to her evidence, such act was even performed by her father while they were in Uttar Pradesh about one year before and continued further. It has further come in her evidence that apart from her disclosing such fact to applicant, she had also informed about such act of original accused no. 1 to Shobha Kuchekar, her neighbour and her son Milind, when they tried to intervene in the matter, accused had directed them not to intervene saying that it is their personal family matter.

5. From the evidence of prosecutrix, it has also come on record that this fact was also known to her sister

Suhana, who has beaten her and drove her away from the house. Having considered the evidence of prosecutrix as aforesaid, *prima facie* it is found that it is not only the applicant alone, being her mother, but above named others, who are examined at the time of trial were also aware of the act committed by the original accused no. 1.

6. In that view of the matter, it cannot be said that it is the applicant alone who inspite of having knowledge of such act committed by the original accused no. 1 on her daughter, failed to take any steps in that regard. On the contrary, evidence of PW-1 PSI Sheetal Sutar, reveals that it is the applicant herself, who on 22nd April 2015 took the prosecutrix to the police station where she had lodged report against her father.

7. In this view of the matter, application is liable to be allowed as per order below:-

ORDER

1. Applicant shall be released on bail on executing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousands) with one or two surety in the like amount and

shall pay amount of fine within one week from today.

2. Applicant shall mark her presence with Police Station Kondhwa, District Pune, quarterly on the 1st day of each such month, pending appeal.

3. Criminal Application is disposed of.

(P.N.DESHMUKH, J.)