

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL APPLICATION NO. 1924 OF 2018****IN****CRIMINAL APPEAL NO. 1430 OF 2018**

Ramesh Tukaram Wavekar

.....Applicant

Vs.

State of Maharashtra

....Respondent.

Mr. Samsher R. Garud I/by Jayakar & Partners for the Applicant.

Ms. P.P. Shinde, APP for the Respondent-State.

CORAM : A. S. OKA, AND**A. S. GADKARI, JJ.****DATE : 24th JANUARY, 2019.****P.C.:-**

Heard the learned counsel appearing for the Applicant in support of this Application for bail. By the impugned Judgment, the Applicant has been convicted for the offences punishable under Section 4 of the Protection of Children from Sexual Offences Act, 2012 as well as under Section 376 of the Indian Penal Code.

2 The case of the prosecution is that the victim at the relevant time was 15 years old. The victim is no more. The crux of the argument of the learned counsel appearing for the Applicant is that the victim never complained and that even according to the case

made out in the evidence of mother of the victim, her age at the relevant time was 19 years. His submission is that the provisions of the Juvenile Justice (Care and Protection of Children), Act-2015 should be invoked for the determination of the age of the victim as well. He relies upon a decision of the Apex Court in the case of **Mahadeo S/O. Kerba Maske Vs. State of Maharashtra & Anr.**¹ He also relied upon a decision of the Apex Court in the case of **Birad Mal Singhvi Vs. Anand Purohit**². He submitted that ossification test ought to have been conducted.

3 We have considered the submissions. At this stage, this Court cannot re-appreciate the evidence. The finding of the Trial Court regarding the date of birth of victim is based on the admission form (Exhibit-64) filled in by the parents of the victim and School Leaving Certificate (Exhibit-65). On the basis of the said documents, the Trial Court came to the conclusion that the age of the deceased was 15 years at the time of lodging of the report. The Trial Court noted that all this will have to be appreciated in the context of the fact that there are accusation of rape and the victim was found to be pregnant of eight months.

1(2013) 14 SCC 637

21988 (Supp) SCC 604

4 At this stage, we cannot re-appreciate the evidence. No case is made out for suspending the sentence and enlarging the Applicant on bail. Application is rejected.

(A.S. GADKARI, J.)

(A.S. OKA, J.)