

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****INTERIM APPLICATION NO. 1164 OF 2020****IN****CRIMINAL APPEAL NO. 379 OF 2020**

Navinkumar Premshankar Tiwari ... Applicant.

Vs.

The State of Maharashtra & Anr. ... Respondents.

Mr. V. V. Purwant i/b. Mr. Yogiraj B. Purwant for the Applicant/Appellant.

Mr. S. S. Hulke, A.P.P. for Respondent No.1-State.

Mr. Aashish Satpute for Respondent No.2 appointed by Legal Aid Committee.

CORAM : A.S. GADKARI, J.

DATE : 21st December 2020.

PC. :

This is an application for suspension of sentence and releasing the applicant on bail.

2. The Applicant is convicted under Section 376 of the Indian Penal Code and is sentenced to suffer rigorous imprisonment of seven years and to pay a fine of Rs.30,000/-, in default of payment of fine to further suffer simple imprisonment for six months by the learned Ad-hoc District Judge-1 and Additional Sessions Judge, Thane in Sessions Case No.504 of 2014 by its Judgment and Order dated 18th January 2020.

3. Heard Mr. Purwant, learned counsel for the applicant, Mr. Mr.Hulke, learned A.P.P. for the respondent-State and Mr. Satpute, learned

counsel for respondent No.2 appointed by Legal Aid Committee, High Court, Mumbai.

4. A bare perusal of evidence of prosecutrix (PW-1) would indicate that, the prosecutrix and applicant were residing together in a room at Diva(E), District Thane for more than 4 years. It is the allegation against applicant that, during the said period, he gave promise to marry with the prosecutrix and established physical relations with her. Evidence of PW-5 indicates that, in his presence, the meeting of applicant, his family members and prosecutrix was conducted wherein the applicant expressed his willingness to perform marriage with the prosecutrix. However, she denied to it.

5. Learned counsel for the applicant submitted that, only with a view to get monitory benefit from the Government Agency through PW-5, the prosecutrix retracted her agreement to perform marriage with the applicant. He further submitted that, the application of the prosecutrix for financial help under Government Scheme was referred to the office of Women and Children Welfare Office, District Thane and the prosecutrix was granted financial help from the said Government agency. He submitted that, the present crime has been lodged belatedly in the year 2014.

6. In view of the above, the sentence imposed upon the applicant can be suspended and he can be released on bail.

Hence, the following Order :-

- (i) During the pendency of the present Appeal, the sentence imposed upon the applicant is suspended.
- (ii) Applicant be released on bail in Sessions Case No.504 of 2014, on his furnishing PR. bond of Rs.10,000/- with one or two local sureties in the like amount.
- (iii) Applicant shall not contact the prosecutrix or her relative witnesses.
- (iv) In view of the fact that, the prosecutrix has been granted financial help by the Government Agency, the direction of payment of compensation to the prosecutrix by the impugned Judgment and Order dated 18th January 2020 is hereby stayed during the pendency of the present Appeal.

7. Application is allowed in the aforesaid terms.

(A.S. GADKARI, J.)