

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

***INTERIM APPLICATION NO. 595 OF 2022
(FOR BAIL)***

***IN
CRIMINAL APPEAL NO. 309 OF 2022
WITH
CRIMINAL APPEAL NO. 309 OF 2022***

Shyam Jivan Medhkar

...Applicant/
Appellant

Versus

The State of Maharashtra

...Respondent

Mr. Pramod G. Kathane, Appointed Advocate for the
Applicant/Appellant

Mrs. P. P. Shinde, A.P.P for the Respondent–State

***CORAM : REVATI MOHITE DERE &
SHARMILA U. DESHMUKH, JJ.
TUESDAY, 19th JULY 2022***

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 the appeal.

3 The applicant, vide judgment and order dated 7th July 2017 passed by learned Additional Sessions Judge, Kalyan, in Sessions Case No. 193/2013, has been convicted and sentenced as under:-

- for the offence punishable under Section 376 r/w 511 of the Indian Penal Code, to suffer imprisonment for life and to pay fine of Rs.5,000/-, in default of payment of fine, to suffer simple imprisonment for 6 months;
- for the offence punishable under Section 504 of the Indian Penal Code, to suffer simple imprisonment for 1 year and to pay fine of Rs.1,000/-, in default of payment of fine, to suffer simple imprisonment for 1 month;
- for the offence punishable under Section 506 of the Indian Penal Code, to suffer simple imprisonment for 1 year and to pay fine of Rs.1,000/-, in default of payment of fine, to suffer simple imprisonment for 1 month;

All the aforesaid sentences were directed to run concurrently.

4 Perused the papers with the assistance of the learned counsel for the parties.

5 The applicant is the father of the prosecutrix who at the relevant time was about six years of age. PW 6 i.e. the prosecutrix has stated the manner in which the incident had taken place. She submitted that after the applicant disrobed her, her mother came. She has further stated that as she was having pain in her abdomen, she was taken to the hospital.

6 The evidence of PW 3-Dr. Meenal Pingale shows that on examination, she found three injuries i.e. Contusions were present at labia minora; that there was a tear at 12 o'clock position and that hymen was torned.

7 The evidence of PW 1-mother of the prosecutrix shows

that when she entered the room, she found the applicant and her daughter in a naked position.

8 Considering the evidence, *prima facie*, this is not a fit case to enlarge the applicant on bail. Application is rejected. However, having regard to the fact that the applicant is in custody since 2012, the hearing of the Appeal is expedited.

9 The appeal to be placed at the end of the admission board for final hearing on 8th September 2022.

10 Application is disposed of accordingly.

SHARMILA U. DESHMUKH, J.

REVATI MOHITE DERE, J.