

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

**INTERIM APPLICATION NO.1406 OF 2022
IN
CRIMINAL APPEAL NO.461 OF 2022**

Mahadev Bhimrao Yedge .. Applicant/Appellant
Versus
State of Maharashtra and Anr. .. Respondents

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Ms.Anjali Patil, Advocate for the Applicant/Appellant.
Ms.P.N. Dabholkar, APP for the Respondent – State.

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CORAM : PRAKASH D. NAIK, J.

DATED : MAY 06, 2022.

P.C. :

This is an application for suspension of sentence and grant of bail during the pendency of Appeal challenging the judgment of conviction.

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2 The applicant/appellant has been convicted *vide* judgment and order dated 6th April, 2022, passed by the Court of learned Additional Sessions Judge, Pune, in Sessions Case No.470 of 2013, for the offences punishable under Sections 363, 366, 376(1) and 506 of Indian Penal Code (“IPC”, for short). He has been sentenced to suffer imprisonment of 2 years, 5 years, 7 years and 2 years, on each count.

3 The case of the prosecution is that the victim was minor at the time of incident. She was aged around 16 years. On the date of incident, the accused visited the college of the victim girl, caught her hand, and, made her to sit in his four-wheeler. She was threatened and forcibly taken to Alandi. Thereafter, she was taken to a lodge and subjected to sexual intercourse. The incident had occurred on 10th November, 2012, and, the FIR was lodged on 5th December, 2012. The applicant/appellant was arrested on 5th December, 2012. Investigation proceeded. Charge-sheet was filed.

4 Learned advocate for the applicant/appellant submit that the applicant/appellant was on bail during the trial. He has not misused the facility of bail. From the evidence of the victim girl, it is apparent that the accused and the victims were in relationship. The evidence does not disclose that there was resistance from the victim while she was taken to Alandi, and, the alleged place of incident. The Manager at the lodge was examined as P.W.3. His evidence does not indicate that there was any resistance from the victim girl and that she had accompanied accused when they occupied the lodge. The age of victim was not proved.

5 Learned APP submitted that there was resistance from the victim girl, which is apparent from her evidence. She was threatened and forcefully taken to the place of incident. The suggestion given by the defence to the victim falsifies the defence of the accused that there was consensual relationship between the victim and the accused. The victim has stated that the window of the car was locked by the accused. From the evidence of P.W.3, who is Manager of the lodge, it cannot be inferred that there was no resistance from the victim girl and the relationship was consensual. The evidence of P.W.3 shows that the victim and the accused were together. The victim was aged around 16 years at the time of incident.

6 Undisputely, the applicant/appellant was on bail during the trial. There is no adverse report about misuse of the facility of bail. According to victim girl, she was forcefully taken the accused to Alandi. Thereafter, they visited lodge. When she had shouted, people had gathered, however, she did not complain to them about the forceful kidnapping by the accused. The evidence of P.W.3, who was present at the lodge when the victim girl had accompanied the accused has deposed that both of them had visited lodge, made inquiries and got themselves admitted in the lodge. He had produced the photographs of recording of the CCTV of the victim and the

accused. According to the defence the demeanor of the witness does not indicate that victim was forcefully taken to lodge. Considering all the aspects, the case for suspension of sentence and grant of bail is made out.

7 Hence, I pass the following order:

:: ORDER ::

- (i) Interim Application No.1406 of 2022, is allowed;
- (ii) The sentence of imprisonment imposed vide judgment and order dated 6th April, 2022, passed by the Additional Sessions Judge, Pune, in Sessions Case No.470 of 2013, is suspended and the applicant is directed to be released on bail on executing P.R.Bond in the sum of Rs.20,000/-, with one or more sureties in the like amount;
- (iii) Applicant/appellant is permitted to furnish cash bail security of Rs.20,000/-, for a period of eight weeks, in lieu of surety;
- (iv) Applicant shall not approach the victim girl and shall not cause any harassment to her;

- (v) Applicant/appellant shall attend the trial Court once in six months on first Saturday of the month, till the disposal of Appeal;
- (vi) In the event there are two consecutive defaults in attending the trial Court, the said fact may be brought to notice of this Court and the prosecution is at liberty to move an application for cancellation of bail;
- (vii) Interim Application No.1406 of 2022, stands disposed of accordingly.

(PRAKASH D. NAIK, J.)