

IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.321 OF 2023  
IN APEAL/52/2023

JITENDRA @ PAPPU BHIMRAJ SHINDE  
VERSUS  
THE STATE OF MAHARASHTRA AND ANOTHER

...  
Mr. K.N. Shermale, Advocate for Applicant  
Mr. A.A. Jagatkar, APP for Respondent – State  
Mr. A.B. Jagtap, Advocate for Respondent No.2  
...

CORAM : NITIN B. SURYAWANSHI, J.

DATE : 28<sup>th</sup> FEBRUARY, 2023

PER COURT :

1. By this application, applicant seeks suspension of his substantive sentence of rigorous imprisonment of 10 years, imposed by the learned Additional Sessions Judge, Sangamner, in Sessions Case No.62/2020, by order dated 10/01/2023, for offence punishable under sections 376(1) and 323 of the Indian penal Code.
2. Heard learned advocate for applicant, learned Additional Public Prosecutor for State and learned advocate for respondent No.2. Perused the evidence of informant/prosecutrix.
3. Learned advocate for applicant has relied on *Bhagwan Rama Shinde Gosai Vs. State of Gujarat, [1999 (4) SCC 421]* and *Kashmira Singh Vs. State of Punjab [1977 (4) SCC 291]*, so also, decision of the learned Single Judge of this Court *in Criminal Application No.3831/2019 [Pravin @ Bandu Ashok Dake Vs. The*

*State of Maharashtra]*, to urge that the sentence is fixed term sentence and the Hon'ble Apex Court has granted bail in such cases.

4. Trial Court has found the sole testimony of the prosecutrix reliable, which inspires confidence. Prosecutrix has deposed before the Court that accused is closely related to her, being son of her paternal aunt. He is a local goon who possesses weapon like knife with him. Whenever she would go to latrine in the late night hours towards river side or brick-kiln, accused would follow her to that place and he used to threaten to kill her and her elder daughter, who was taking education at Shrirampur, and under that threat he used to rape her. This went on for about one year.

5. In the citations relied upon by learned advocate for applicant, it is held that in fixed term sentence bail should be granted if the Court is not in a position to hear the appeal expeditiously. In the present case, appeal of the applicant can be taken up for consideration in the near future.

6. *Prima facie*, there appears sufficient evidence on record to sustain the conviction. Applicant/accused, therefore, in my opinion is not entitled for bail. Application is, therefore, rejected.

**(NITIN B. SURYAWANSHI, J.)**