

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

**CRIMINAL APPLICATION NO.1622 of 2023
IN
CRIMINAL APPEAL NO.365 of 2023**

Parmeshwar @ Premdas s/o. Namdeo Ade ..Applicant
Vs.
The State of Maharashtra and anr. ..Respondents

Mr.A.S.Shejwal, Advocate for applicant
Mr.A.A.Jagatkar, APP for respondent

**CORAM : R.G. AVACHAT, J.
DATE : MAY 03, 2023**

ORDER :-

Heard.

2. This is an application for suspension of substantive sentence of imprisonment. The applicant/appellant herein has been convicted for the offences punishable under Sections 376 and 326 of Indian Penal Code and sentenced to undergo rigorous imprisonment for seven years and three years, respectively, and to pay fine with the default stipulation.

3. Learned APP would submit that the Medical evidence indicates the victim to have suffered injuries. The same reinforces the victim's evidence. The victim, in her cross-examination, was not

suggested, as to why did she lodge false complaint against the applicant herein. The victim was semi-conscious from the date of the assault. She regained consciousness after ten days and thereafter, her statement came to be recorded. According to him, the evidence of the victim cannot be disbelieved. He would further submit that let the applicant behind the bars since the offence being serious one.

4. Since both the sentences have been directed to run concurrently, the applicant is supposed to undergo sentence of seven years. He was in jail for little over four months, pending enquiry, investigation and trial. Then, he was on bail. Post conviction, he is in jail for little over fifteen days. It being a short-term sentence and the appeal being of 2023, is not likely to have its turn for hearing in the immediate future.

5. It is true that the medical evidence indicates the victim to have suffered injuries. It, however, needs to be stated that the injuries suffered by the victim were simple in nature. The Medical Officer, who screened the victim, did not notice any injury at the private part. Hymen was seen to have had old tears. The victim was married. As such, except the victim's testimony, there is nothing to reinforce her case.

6. The above observations are *prima facie* in nature, made only for deciding this application for suspension of substantive sentence of imprisonment.

7. In short, the victim gave her statement three days after she regained consciousness. The Doctor stated in his evidence that the victim was semi-conscious. There is no evidence as to when she regained consciousness. In view of this factual background and the fact of it being a short-term sentence and as the appeal is not likely to come up for hearing in the near future, the application deserves to be allowed.

8. During pendency of the appeal, the substantive sentence of imprisonment to stand suspended. The applicant be released on executing P.R. Bond in the sum of Rs.15,000/- (Rupees Fifteen Thousand) with one surety in the like amount.

9. The application stands disposed of.

[R.G. AVACHAT, J.]

KBP