



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

**CRIMINAL APPLICATION NO. 89 OF 2024
IN APPEAL/423/2024**

. Manohar @ Jibhau Ambarsingh Sonwane
Age: 35 years, Occu.: Labour,
R/o. Rundawali, Tq.Shirpur,
Dist.Dhule.
.....Applicant
(Orig. Accused No.1)

Versus

1. The State of Maharashtra,
Through the Police Station Officer,
The MIDC Police Station Jalgaon,
Tq.Jalgaon, District Jalgaon.
and Another
.....Respondents

.....
Advocate for Applicant : Ms. Anagha Vasantrao Rotte
APP for Respondent no.1 : Mr.N.D.Batule
Advocate for Respondent no.2 : Mr. Dinkar Karbhari Dagadkhair
(Appointed through Legal Aid)

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CORAM : ABHAY S. WAGHWASE, J.

**RESERVED ON : 26 JUNE, 2024
PRONOUNCED ON : 28 JUNE, 2024**

ORDER :

1. Present application is for suspension of sentence and grant of bail in consequence to judgment and order dated 28-04-2023 passed by learned Additional Sessions Judge, Jalgaon in Sessions Case No.327 of 2019 thereby convicting applicant (accused no.1) guilty for offence under Section 376(1) of the Indian Penal Code (IPC).

2. In support of above relief, learned Counsel for the applicant would submit that applicant was chargesheeted in the backdrop of report of prosecutrix PW1 Sapna filed on 13-06-2019 at MIDC Police Station., Jalgaon. Learned Counsel pointed out that prosecutrix is not only married but also mother of a daughter. That prosecutrix claimed that she had left her matrimonial house and had come to stay at her maternal uncle's place. That she further claimed that there she came in contact with accused no.2 and asked her to search and fix job for her. That it is also alleged that accused no.2 assured her and finally prosecutrix left her maternal uncle's place without informing him on 12-06-2019. That she was stripped off her ornaments and even allegedly further sent to accused no.1. There present applicant had allegedly committed sexual intercourse with her.

3. That above complaint is apparently false and after delay of which there is no explanation. Learned Counsel further submitted that defence of applicant in trial Court is of consensual sexual act. That there was no force as alleged. That medical evidence belies forceful act. Learned Counsel pointed out that even at the time of medical examination, prosecutrix gave history about being forced upon by unknown person. That there are no injuries either internal or external regarding forceful act.

4. Learned Counsel further pointed out that even the spot where alleged incident took place virtually had no doors and it was a place where

there was free access to anyone at any time. That at such place, there cannot be forceful sexual intercourse. That victim had herself accompanied present applicant to the said room and had spent night. That subsequently false and afterthought complaint has been filed. That there is a good case in appeal but as it would take long time to be heard and decided, learned Counsel prayed for relief of suspension of sentence and grant of bail during pendency of appeal.

5. While opposing above relief, learned APP for respondent State as well as learned Counsel appointed for victim pointed out that victim has been exploited by three accused persons including present applicant. They pointed out that present applicant is main accused. That accused nos.2 and 3 have apparently lured the victim of job and sent her to present applicant. That applicant accused had forcible sexual intercourse with her. That she is very categorical in complaint, statement under Section 164 of the Code of Criminal Procedure and even in substantive evidence that applicant has forced upon her against her wish. That there was no consent. That offence is serious and therefore, for all above reasons, they prayed to reject the application.

6. Perused the papers, more particularly, FIR, as well as testimony of prosecutrix. Substance of the same seems to be that on account of marital discord, prosecutrix left the house and came to her maternal uncle's place.

It seems from the report that she got acquainted with accused nos.2 and 3 and when she expressed desire to work for earning and to look for job for her, accused nos.2 and 3 made her leave the house and accordingly, it seems that she left maternal uncle's place without informing anyone on 12-06-2019. She has alleged that her ornaments were taken away by accused nos.2 and 3 (non-applicants) and prosecutrix was sent to present applicant and he seems to have come to take her at Dhule Bus Stand. She has categorically stated that as she was in need of job for earning, she accompanied present applicant to Shirpur and he took her to his village Rundawali. There she has alleged that after forcibly disrobing her against her wish, he had committed sexual intercourse with her in the night. She has further categorically stated that it being a new place for her, and it being night time, she stayed there itself. She claims that she managed to escape and finally, lodged report on 13-06-2019.

7. Alleged occurrence is of night of 12-06-2019. Report is filed on the next day. Considering the peculiar circumstances, delay cannot be given undue significance. Offence is serious. Apparently there are allegations of forceful sexual intercourse. Conviction is recorded on full-fledged trial. Considering the nature of offence, though applicant is behind bars since 2019, this Court is not inclined to grant relief as prayed for. Accordingly, following order is passed.

ORDER

Criminal Application No.89 of 2024 stands rejected.

(ABHAY S. WAGHWASE)
JUDGE

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