

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.581/2015

(Mayur s/o Govind Bawant ..vs.. State of Maharashtra, through PSO P. S. Ambazari,
Nagpur City, Nagpur)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mrs. M. M. Ghatode, Advocate for applicant.
Mr. Khan, A.P.P. for non applicant-State.

CORAM : A. B. CHAUDHARI, J.

DATE : JANUARY 28, 2016

Heard learned counsel for the rival parties.
Perused the FIR as well as case diary. Perused the reasons
in paragraph 7 of the order passed by learned Additional
Sessions Judge, Nagpur, which I quote hereunder:

“7. Considering the police papers, it appears
that the applicant was in jail for the offence
punishable under Sections 307, 324 R/W Section 34
of the I.P.C. and was released in June, 2015. Even if
the prosecutrix might be having love affair with him
in 2013-14 but as per the report she was reluctant to
keep any relation with him after his jail visit.
However, the applicant got her cell phone number,
started threatening her on phone, called in his house
and confined her between 17.10.2015 to
21.10.2015. He assaulted, raped and beat her and
committed unnatural offence with her. The alleged
previous relation cannot negative the events which

appreciate has committed with her on the basis of which the report has been lodged. The injury report also supported the events which the prosecutrix has narrated in her report. No doubt, she has filed affidavit in favour of the applicant. However, on that basis also the allegation in the report and action taken by the police cannot be negated. The possibility cannot be ruled out that the affidavit of the prosecutrix may be pressurizing tactics applied by the applicant against her otherwise, the offence was registered on 22.10.2015 and no progress of marriage since then till this date.”

In the light of amended definition of rape, there is absence of unequivocal consent. The medical report also goes adverse to the contention of the applicant. Looking to the allegations in the FIR and the medical evidence, prima facie, I find there is direct evidence against the applicant. The applicant is not entitled to grant of anticipatory bail.

In view of above, following order is passed.

ORDER

- (i) Criminal Application No.581/2015 is rejected.

JUDGE