

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

CRIMINAL REVISION APPLICATION NO.36/2019

Prem s/o Prakash Ingle

..VS..

State of Mah., thr. PSO PS Old City Akola, Taluka District Akola

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

Court's or Judge's Order

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Shri A.S.Londhe, Counsel for the applicant.
Shri S.D.Sirpurkar, Addl.P.P. for the State.

CORAM : M.G.GIRATKAR, J.

DATED : MARCH 27, 2019.

1. Heard learned counsel Shri A.S.Londhe for the applicant and learned Additional Public Prosecutor Shri S.D.Sirpurkar for the State.
2. Learned counsel Shri A.S.Londhe for the applicant points out DNA Report and submitted that the applicant is not concluded to be father and, therefore, offence under Section 376 of the Indian Penal Code is not made out. He submits that learned Sessions Judge wrongly rejected application for grant of bail and prays that the present revision be allowed.
3. Learned Additional Public Prosecutor Shri S.D.Sirpurkar for the State supports the impugned order.
4. Learned counsel Shri A.S.Londhe filed a Pursis vide Stamp No.1144/2019 along with a written complaint by Sau.Sunita Eknath Mule and Vimal Vasant Dabhade. The said complaint shows that both the complainants informed

the Superintendent of Police at Akola that though they did not give any statement to Investigating Officer, their names are shown as witnesses.

5. This is a matter of evidence before the Trial Court. Based on negative DNA Report, the accused cannot be discharged. The prosecution has to prove that sexual intercourse took place without her consent. The Trial Court has to decide whether offence under Section 376 of the Indian Penal Code is made out or not. Even, sole testimony of the prosecutrix can be relied on if her evidence inspires confidence of the Court.

6. Hence, only because DNA Report is negative, the applicant cannot be discharged. There is no perversity or illegality in the order impugned in the present matter.

7. In that view of the matter, the criminal revision application is rejected and disposed of accordingly.

JUDGE

!! BRW !!

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