

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

Criminal Application (BA) No. 468 of 2019

Shaikh Shabbir

Vs.

State Through P.S. Borgaon Manju Dist. Akola

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

Court's or Judge's orders

Mr. V.B.Bhise , Advocate for applicant.
Mr. N.R. Rode, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JULY 8, 2019

The applicant herein has approached this Court for grant of bail. In the present case, FIR was registered on 20/03/2002 and it was alleged in the oral report, leading to registration of FIR. That the applicant was present, who brought the complainant and the other accused person at the bus stop, from where the other accused person took the complainant to various places in buses and thereafter committed the act of forced sexual intercourse. On the basis of such report, FIR was registered under Sections 363, 366, 376, 506 of the Indian Penal Code against the main accused as also the applicant.

2. It is pointed by the learned APP that although the FIR was registered as far back on 20/03/2002, the applicant remained absconding and

that he evaded arrest and investigation. It is only on 24/01/2019, that the applicant was arrested. In this backdrop, the learned counsel for the applicant has pointed that although charge-sheet is said to have filed against him as an absconding person, no proclamation as contemplated under the provisions of the Code of Criminal Procedure was ever issued and that, therefore, it was appropriate to claim that the applicant was absconding accused person. It was pointed out that even if the report, leading to registration of FIR, was perused the role of the applicant was only that of dropping the complainant and the main accused person at the bus stop on the two wheeler. It was submitted that from 24/01/2019, the applicant is behind bars and no purpose would be served by keeping the applicant behind bars for further period of time during pendency of trial.

3. Although, it appears that the applicant did evade arrest for long period of time till he was eventually arrested on 24/01/2019, a perusal of oral report, leading to registration of FIR shows that the role attributed to the applicant was of having dropped the complainant and the main accused person at the bus stop on two wheeler. The main ingredients of the offences appear to be related to the role of co-accused person, who allegedly took the complainant away by threatening her by means of weapon and eventually allegedly committed act of the forcible sexual

intercourse.

4. The limited role attributable to the applicant presented on record indicates that he, at worst, facilitated co-accused person to take the complainant upto the bus stop on two wheeler. Considering these facts, as also the fact that the applicant has now remained behind bars since 24/01/2019 and the main accused is already enlarged on bail, the present application deserves to be allowed.

5. Accordingly, the application is allowed and the applicant is directed to be released on bail on furnishing PR bond of Rs.25,000/- and surety of like amount. The applicant shall remain present before the Trial Court on each and every date of the proceedings. The applicant shall not influence the witnesses.

6. It is clarified that the observations made in this order are limited to the question of grant of bail to the applicant.

JUDGE