

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

BAIL APPLICATION NO. 3322 OF 2019

Daulat Vitthal Nirbhawane	...Applicant
V/s.	
The State of Maharashtra	...Respondent

Mr. Ashok M. Misal, Advocate for the applicant.
Mr. S.S. Pednekar, APP for Respondent-State.

CORAM : SANDEEP K. SHINDE, J.

Monday, 16th March, 2020.P.C. :

Heard.

1. Applicant is seeking his enlargement on bail in connection with Crime No. 129 of 2019 registered with Saykheda Police Station, Nashik for the alleged offences punishable under Sections 376-D, 376 (2)(1), 376 (2)(n) of the Indian Penal Code, 1860 ("IPC" for short).

2. The victim was 25 years old and allegedly subjected to sexual assault by gang. Clinical Psychologist has certified that the victim suffers from mild intellectual disability and could not communicate. Before certifying her intellectual

disability certain tests were administered. Even though it is certified that she was not unfit to give the statement, prima facie report and her narration suggests she did not submit herself to the sexual desires of the applicant and others. Besides the DNA report revealed applicant could be a biological father of the victim. In view of the material available on record, the application is rejected. However, the trial in Sessions Case No. 84/2019 pending before the learned Sessions Court Niphad, Dist. Nashik is directed to be expedited. Application is disposed off in aforesaid terms.

3. It is made clear that the observations made hereinabove shall be construed as expression of opinion only for the purpose of refusal of bail and the same shall not in any way influence the trial in other proceedings.

(SANDEEP K. SHINDE, J.)