

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

CRIMINAL APPLICATION (BA) NO. 1136 OF 2019

Gautam s/o Namdeo Shejul .Vs. State of Maharashtra,through PSO, P.S.,
Resod, Dist. Washim.

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

Court's or Judge's orders.

Mr. A.S. Deshpande, Advocate for applicant.
Mr. P.S. Tembhare, A.P.P. for non applicant- State.

CORAM : V. M. DESHPANDE, J.
DATED : JANUARY 03, 2020

Heard Mr. Deshpande, learned counsel for the
applicant and Mr.Tembhare, learned Additional Public
Prosecutor for non applicant-State.

2. Applicant is arrested in connection with Crime
No.39/2019 registered with Police Station, Risod, District
Washim for an offence punishable under Sections 366 and
376 of the Indian Penal Code.

3. According to learned counsel for the applicant
age of the prosecutrix is 19 years and she was aware that
applicant is already married and at her own she
accompanied with him. He submits that since charge-sheet
is already filed, further custodial presence of the applicant is
not required. He submits that application of the applicant be
considered favourably.

4. The incident has occurred on 04.02.2019 and the report is lodged on 07.02.2019, after prosecutrix returned to her place with the assistance of one Giridhar Shejul. Thus, from 04.02.2019 to 07.02.2019 the prosecutrix was in confinement of the present applicant, therefore at this stage, it can be said that there is delay in lodging First Information Report (FIR) is properly explained.

5. The applicant initially approached to the Court for grant of pre-arrest bail. The attempts to secure the pre-arrest bail were unsuccessful and ultimately the Hon'ble Apex Court, on 03.07.2019, dismissed Special Leave Petition filed on behalf of applicant. Thereafter the applicant has surrendered and was taken into custody.

6. As per FIR, prosecutrix came at 04:00 O'clock in morning to answer nature's call at that time the present applicant was standing in front of her house. Thereafter he came near to her and enticed her that she should accompany along with him. He further gave a promise that he will marry with her by giving divorce to his wife and also abandon his children. As per FIR, due to such enticement the first informant accompanied along with applicant. As per report, they went at various places for three days and against her wish, the applicant has committed rape on her. Ultimately, one Giridhar Shejul extended helping hand to the prosecutrix due to which she could reach to her place.

7. Contents of the charge-sheet show that against her wish and will of the prosecutrix the present applicant, who is a married person having children, has committed rape on a very tender aged woman though she has attended majority, very recently. In that view of the matter, present is not a case where this Court should exercise discretion in favour of the applicant.

8. Consequently, the application is rejected.

JUDGE

srwagh