

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

CRIMINAL APPLICATION (BA) 141/2021

Santosh Sitaram Ingle

-VERSUS-

State of Maharashtra.

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

Court's or Judge's Orders

Shri A. B. Mirza, Advocate for applicant.

Ms. N. Mehata, A. P. P. for non-applicant.

CORAM : VINAY JOSHI, J.

DATE : 23.03. 2021.

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. Applicant – Santosh Ingle seeks regular bail in connection with Crime No. 199/2020 registered at Police Station Hiwarhed relating to the offence punishable under Sections 376(2)(i), 506, 452 of the Indian Penal Code. Applicant has claimed bail on regular grounds like innocence, false implication etc. Besides, that it is argued that the victim's statement has not been recorded though she was able to give statement. Moreover, it is submitted that there is no evidence to suggest the sexual assault. Learned APP strongly resisted

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this application vide reply-affidavit.

3. The prosecution case in-nutshell has been stated in reply. According to the State, there are eye-witnesses to the occurrence. Moreover, during medical examination, the victim was found intellectually disabled and therefore, her statement could not be recorded. Learned APP pointed out that the Statement of eye-witness under Section 164 of Code of Criminal Procedure were recorded in which they stated about direct role of applicant.

4. Mother of victim has lodged report on the date of occurrence itself. As per her report, on the date of occurrence, one boy namely Lucky Ingle had disclosed that his relative called as *Mothe Baba* i.e. accused entered into the house of victim, caused her to lay down and after removing her garments, had forcefully committed sexual intercourse. The mother of victim stated that victim was in frightened condition. Hence, she asked about happenings, on which the victim has narrated the story. There are statements of eye-witness who have seen the occurrence meaning thereby it is a case of direct evidence. Pertinent to note that in medical examination victim was found physically disable and her intellectual capacity was very low. Therefore, that may be reason for not

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recording her statement as she being mentally handicap. Medical evidence suggests that samples were sent and no final opinion could be expressed. It is a case of direct evidence wherein number of witnesses have stated that the accused by taking disadvantage of physically challenge grown up victim, had committed sexual intercourse with her.

5. Having regard to the nature, seriousness of the accusation and the existence of direct evidence, it is not a fit case for bail. In view of that application stands rejected.

6. The applicant is at liberty to approach this Court, if the trial has not commenced within a period of six months.

JUDGE

Gohane.