

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

CRIMINAL APPLICATION (BA) NO.139/2021

Ashok S/o Rushi Mendhe

-VERSUS-

State of Maharashtra through P.S.O., P.S. Arjuni Mor, Ta. Arjuni Mor, Dist. Gondia.

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

Court's or Judge's Orders

Shri P.N. Sangidwar, Advocate for applicant.
Ms N.P. Mehta, A.P.P. for non-applicant/State.

CORAM : VINAY JOSHI, J.

DATE : MARCH 23, 2021.

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

2. Rejection of bail application by Additional Sessions
Judge, Gondia vide order dated 03/12/2020 has occasioned the
applicant/accused to approach this Court for grant of regular bail.
The applicant was arrested in Crime No.93/2020, for an offence
punishable under Sections 376 (2)(f)(n) and 506 of the Indian
Penal Code and Sections 4, 6, 8 and 10 of the Protection of
Children from Sexual Offence Act, 2012 (POSCO).

3. At the instance of First Information Report lodged by
father of victim girl aged 17 years, a crime came to be registered.
It is the prosecution case that in the month of September 2019,

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victim went to the house of accused to stay for few days. The accused was the husband of maternal aunt of the victim. On 28/10/2019, the victim girl returned to her parents house. In the month of March, 2020, the victim disclosed that applicant/accused had forcible sexual intercourse with her during her stay at his house. She also disclosed that the applicant had threatened her for not to disclose the things, otherwise he would kill her and other relatives. The police recorded statement of victim who has equally narrated in detail as to how the applicant committed sexual assault by force.

4. It is argued that there is inordinate delay of four months in filing of First Information Report. However, it is to be understood that the offence relates to chastity of woman and particularly the accused was near relative. The investigation papers disclose that victim was pregnant, hence police collected samples and sent for DNA test.

5. Learned Additional Public Prosecutor has pointed out that DNA report dated 31/08/2020 discloses that victim and applicant are biological parents of the fetus. Thus, prima facie there appears to be strong evidence about the complicity of accused. The entire episode discloses that the applicant in whose house the victim stayed by trust, was sexually assaulted. The victim as well as her father has stated about the incident and

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scientific report supports the prosecution case. The offence is of serious nature and there are high chances of tampering with the prosecution evidence. In view of that the applicant does not deserve for grant of bail. Hence Criminal Application stands rejected.

JUDGE

R.S. Sahare