

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

CRIMINAL APPLICATION (BA) NO.976 OF 2021

(Nilesh s/o Rambhau Kharap Vs. State of Maharashtra thr. PSO PS Ural, Tq. Balapur,
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. S. G. Joshi, Advocate for Applicant.
Mr. N. R. Rode, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 4th OCTOBER, 2021.

Mr. Nagesh Bhagat lodged report dated 09.01.2021 at Police Station Ural, the gist of which is that his sister ('S') is to a certain extent intellectually challenged and that her husband deserted her. The informant states that 'S' was treated, however, there was no significant improvement. Rather, her condition only aggravated and she started roaming in the village aimlessly. She was divorced by her husband. It is then alleged that on 06.01.2021 it was noticed that 'S' was pregnant. She then disclosed that some seven to eight months prior, she was subjected to forcible sexual intercourse by the applicant.

2. On the basis of the said report, Crime 8/2021 under section 376 (2)(1)(n) read with 34 of the Indian Penal Code (IPC) is registered and the applicant and co-accused Rambhau, who also allegedly raped the victim, were arrested. The co-accused is released on bail by this Court.

3. The investigation is complete and the charge-sheet is filed. The DNA profiling of the baby, 'S' and the applicant confirms that the applicant is not the father of the child born to the victim. In any event, the applicant has no antecedents and it is not even the case of the prosecution that he would not be available to face the trial.

4. The applicant is in custody since 10.01.2021. I do not see any propriety in continuing the incarceration.

5. The application is allowed.

6. The applicant be released from custody subject to the following conditions:

- (i) The applicant shall execute the personal bond of Rs.16,000/- (Rupees Sixteen Thousand only) with one solvent surety of the like amount.
- (ii) The applicant shall not make any attempt to influence the witnesses, directly or indirectly.
- (iii) The applicant shall not leave the country without the permission of the trial Court.

JUDGE