

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

CRIMINAL APPLICATION (APL) NO. 210/2022
Shashank Kamlakar Khatarkar...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

Ms. A.R.Sharma, Advocate for the applicant
Mr. A.R.Chutke, APP for Respondent/State

CORAM : AVINASH G. GHAROTE, J.
DATE : 26/02/2022

Heard Ms. Sharma, learned counsel for the
applicant and Mr. Chutke, learned APP for State.

2] The only grievance raised is that the mother of the victim is likely to be examined earlier in point of time than the victim, which may lead to disclosure of the defence of the accused/applicant. This apprehension is expressed on the basis of the schedule of the witnesses to be examined, in which the mother of victim is shown to be witness no.1.

3] It is further submitted that on 24.9.2021, when the matter was fixed for evidence, the victim was absent and mother was present, considering which the application at Exh.17 came to be filed, which has been rejected.

4] Mr. Chutke, learned APP does not dispute that the examination of the victim ought to be earlier in point of

time than any other witnesses and even otherwise it is in the discretion of the Court under Section 231(2) of Cr.PC., which has to be exercised in a reasonable manner.

5] In the instant matter, considering the apprehension expressed which may not be unjustified, it would be appropriate, if the victim is examined earlier in point of time than any other witnesses, in view of which the impugned order, therefore, is hereby quashed and set aside and the learned Sessions Court is directed to examine the victim earlier point of time than any other witnesses. The parties are directed to appear before the learned Sessions Court on 7.3.2022, on which date the prosecution shall keep the victim present and the applicant/accused shall begin with the cross examination.

6] The applicant shall bring the order of this Court to the notice of the learned Sessions Court by placing the copy of the same before the Sessions Court on 1.3.2022.

7] The application stands disposed of in above terms.

JUDGE

Rvjalit