

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

Criminal Application (BA) No. 610 of 2022

Rushab Ramesh Gajbhiye

Versus

State of Maharashtra, through Police Station Officer, Police Station
Hingna, Nagpur, Dist. Nagpur and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri S.D.Chande, Advocate for the applicant.

Ms Shamshi Haider, APP for the State / Non-applicant

CORAM : ANIL S. KILOR, J.

DATED : 28th JUNE, 2022.

The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in Crime No. 668 of 2022 dated 24th May, 2022 registered with Police Station Hingna, Tah. Hingna, Dist. Nagpur City for the offence punishable under Sections 376, 376(2) (n) read with Section 34 of Indian Penal Code.

2. Learned counsel for the applicant submits that though the alleged incident is dated 26th January 2022, the report was belatedly lodged on 24th May, 2022 and no explanation has been offered for such delay. He submits that the applicant has been falsely

implicated in the alleged offence. He lastly submits that the applicant is in jail from last one month and looking to the allegations made in the First Information Report, his custody is no more required. Accordingly, he prays for grant of bail.

2. Learned Additional Public Prosecutor strongly opposed the present application.

3. Applicant is the accused no.2 who is in jail since last one month. The allegation against the applicant is of sexual assault. However, looking to the allegation made in the First Information Report against the accused persons, it appears that there was consensual relations of the victim with the accused no.1. The present applicant is the friend of accused no.1.

4. There is a delay in lodging the First Information Report and *prima facie* no justification appears on the face of the record for such delay. Moreover, the applicant is in jail from last one month and considering the allegations made in the First Information Report, I am of the opinion that further custody of the applicant is not necessary. Accordingly, I pass the following order.

i. Criminal application is allowed;

ii. It is directed that the applicant shall be released on bail in Crime No. 668 of 2022 registered with Police Station Hingna, Tah. Hingna, Dist. Nagpur for the offence punishable under Section 376, 376(2)(n) read with Section 34 of Indian Penal Code, on furnishing P.R.Bond of Rs.25,000/- with a solvent surety in the like amount.

iii. The applicant shall attend the concerned police station on 1st day of every month between 10 am to 12 noon till the conclusion of the trial.

iv. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also not tamper with the evidence;

v. State is at liberty to apply for cancellation of bail in case the applicant commits similar offence.

[ANIL S. KILOR, J.]

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