



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

CRIMINAL APPLICATION (BA) NO.548 OF 2023

(Sandeep Sanjay Nade Vs. State of Maharashtra and anr.)

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

Court's or Judge's Order

Shri S.P. Bhandarkar, Advocate for the applicant.
Shri A.M. Kadukar, APP for the State.
Mrs. S.P. Deshpande, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- AUGUST 18, 2023.

Heard.

2. Present application is for grant of bail filed under Section 439 of the Code of Criminal Procedure in connection with Crime No.582 of 2022 registered at police station Gittikhadan, Nagpur City for the offence punishable under Sections 376(2)(n) and 506 read with Section 34 of the Indian Penal Code.

3. The applicant is arrested on 13th October, 2022. The accusation against the present applicant is that the victim has lodged the First Information Report on an allegation that present applicant is her brother-in-law. She has alleged that when her husband Akash was in jail, her younger brother-in-law co-accused Rajesh was coming to her and was asking for money. She further alleged that said Rakesh has subjected her for sexual assault. She further alleged that the present applicant also came to her house and subjected her for forceful sexual assault.

4. As per her allegation, she was subjected for sexual assault by Rajesh as well as present applicant and her elder brother-in-law Rajan. On the basis of said report police have registered the crime against the present applicant as well as co-accused. As per the contention of the present applicant, the victim intentionally to implicate the present applicant in the alleged offence made false and baseless allegations. Her allegations are not substantiated by any other circumstance or any material which is collected during the investigation. Now investigation is completed and charge-sheet is filed. Further custody of the present applicant is not required. In view of that he be released on bail.

5. Said application is strongly opposed by the State as well as learned Counsel for the victim on the ground that *prima facie* material against the present applicant shows that he has subjected the victim for sexual assault against her consent. During investigation, various statements of the witnesses are recorded by the Investigating Officer which shows the involvement of the present applicant with the alleged offence. Though investigation is completed but there is apprehension that if the applicant-accused is released on bail he will tamper with the prosecution evidence and will hamper the investigation.

6. Heard learned Counsel for the applicant. He reiterated the contention and submitted that the entire allegations are false and not substantiated by any

material. The medical report is also not supporting the fact that the applicant has subjected her for sexual assault. Now, investigation is completed and charge-sheet is filed. Further custody of the present applicant is not required.

7. Learned Additional Public Prosecutor and learned Counsel for the victim vehemently submitted that considering the *prima facie* material against the present applicant, bail application deserves to be rejected.

8. Having heard learned Counsel for the applicant, learned Additional Public Prosecutor for the State and learned Counsel for non-applicant No.2. Perused the investigation papers. Admittedly, victim is a married lady. She has alleged that the present applicant as well as other co-accused subjected her for sexual assault. The alleged incident according to her is on 28/09/2022 as well as 13/06/2022 and in between 13/06/2022 to 28/09/2022 she was subjected for sexual assault repeatedly by the present applicant as well as by the co-accused. The FIR is lodged on 02/10/2022. During investigation, various statements are recorded. Her medical report is also before the Court. No external injuries are found on her person. Even considering the allegations as it is, now investigation is completed and charge-sheet is filed. As far as further custody of the present applicant which is not required and no purpose will be served by keeping the present applicant behind bar. Considering the allegation against the present applicant, the application deserves to be allowed by imposing certain

conditions. Accordingly, I proceed to pass following order :

- (i) The application is allowed.
- (ii) The applicant - Sandeep Sanjay Nade in Crime No.582 of 2022 registered at police station Gittikhadan, Nagpur City for the offence punishable under Sections 376(2)(n) and 506 read with Section 34 of the Indian Penal Code, be released on bail on executing PR. Bond in the sum of 25,000/- (Rs. Twenty five thousand) with one surety in the like amount.
- (iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.
- (iv) The applicant shall furnish his Cell-phone number and address along with the address proof before the Investigating Officer.

- 9. The application is disposed of.
- 10. Fees of the appointed Counsel be paid as per rules.

(URMILA JOSHI-PHALKE, J.)