



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

CRIMINAL APPLICATION (BA) NO. 1051/2023

(Rajan Raju Hatagade V/s State of Maharashtra and another)

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

Court's or Judge's Order

Mr. M.N.Ali, counsel for the applicant.

Mrs M.A.Barbde, APP for the non-applicant No.1/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 19/12/2023.

1. By this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure, 1973 in connection with Crime No.582/2022 registered with Police Station Gittikhadan Nagpur, District Nagpur for the offences punishable under Sections 376(2)(n), 506 read with Section 34 of the Indian Penal Code, 1860. The applicant is arrested on 03/10/2022 and since then he is in jail.

2. The accusations against the present applicant is that the victim who is his sister-in-law 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 present applicant who is her nephew also subjected her for sexual assault. She further alleged, the allegations of the sexual assault against her brother-in-law (sisters husband), on the basis of said report, the Police have registered the crime against the present applicant as well as co-accused.

3. The learned counsel Mr. M.N.Ali submitted that the applicant Sandeep Sanjay Nade, against whom the similar allegations are levelled is already released on bail. He further submitted that the falsity of the allegation is revealed from the fact that she has stated that at the relevant time, her husband was in jail. In fact, he is acquitted prior to the lodging of the FIR on 14/07/2022. He further submitted that the present applicant is falsely implicated in the alleged offence. The false allegations are levelled. Considering the fact that the co-accused against whom the similar allegations are levelled is already released on bail by this Court. In view of that investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required and no purpose will be served by keeping him behind bar.

4. Per contra, learned APP strongly opposed the present application on the ground that considering the gravity of the offence, the application deserves to be rejected. She further submitted that recitals of the FIR, it reveals that not only the present applicant but the other co-accused have also subjected her for sexual assault, and therefore, the application deserves to be rejected.

5. Having heard learned counsel for the applicant and learned APP for the State. Perused the investigation papers. Admittedly, the victim is a married lady. As per her allegation, 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. The certified copy of the judgment placed on record shows that on 28/09/2022 her husband was not in a jail, but he was already acquitted in the month of July itself. The other two incidents narrated by her are on 13/6/2022. The FIR is lodged on 02/10/2022 i.e. after gap of approximately after four days after the last incident as per the allegations.

6. During the investigation, various statements are recorded, her medical report is also before the Court. No external injuries are found on her person. Even considering the injury which is in the nature of hymen tear. She has subjected for sexual assault by present applicant as well as other two accused. Considering the certified copy placed on record, which shows that her husband was released from the jail after the pronouncement of the judgment on 14/07/2022. It is difficult to accept the story of the victim.

7. Moreover, considering that investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. At this stage, it would not be appropriate to comment on the nature of the investigation and material collected during investigation. Considering the allegation levelled against the present applicant and the co-accused against whom the similar allegations are levelled is already released on bail. The present application deserves to be allowed by imposing

certain conditions. Accordingly, I proceed to pass following order:

- a. The criminal application is **allowed**.
- b. The applicant – Rajan Raju Hatagade in connection in connection with Crime No.582/2022 registered with Police Station Gittikhadan Nagpur, District Nagpur for the offences punishable under Sections 376(2) (n), 506 read with Section 34 of the Indian Penal Code, 1860, be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.
- c. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J]