



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

CRIMINAL APPLICATION (BA) NO.682 OF 2024
(Swapnil s/o Sheshrao Khadse 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

Ms K. Ashtikar, Advocate h/f Mr. N. Agrawal, Advocate for the
applicant.
Mr. S.S. Hulke, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 29, 2024.

The applicant came to be arrested on 02/04/2024 in connection with Crime No.181/2024 registered with Police Station Wathoda, Nagpur for the offence punishable under Sections 354(D), 376 and 75 of the Indian Penal Code.

2. The crime is registered on the basis of the report lodged by the victim who is aged about 28 years on an allegation that on 23/02/2022 her marriage was performed with one Shubham Ashok Nanwate but he died on 13/03/2022, and therefore, she is residing along with her mother. On 25/03/2024, there was a festival of Rangpanchami and on that day the present applicant who is the nephew of her sister came under the influence of liquor and subjected her for forceful sexual assault as well as outraged her modesty. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that there was a love affair between the victim and the present applicant and out of love affair there was a physical relationship. The act of the physical relationship was with the consent of the victim. As far as the further incarceration of the present applicant is concerned which is not required as now investigation is already completed. She also invited my attention towards the affidavit filed by the victim showing that there was a love affair between the victim and the present applicant but due to the pressure of the parents this FIR is lodged.

4. Learned APP strongly opposed the application and submitted that considering that there were injuries on the person of the victim the contention that there was a consensual physical relationship is washed out. Though the investigation is completed. Considering the manner in which the alleged incident is taken place. The application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers from which it reveals that the victim is a major woman and was residing along with her mother. As far as the relationship between the applicant and the victim is concerned which appears to be consensual relationship. Due to some pressure this FIR came to be lodged. Whether there was a free consent or not is a matter of evidence. At this stage, considering the investigation is completed and charge-sheet is filed,

further incarceration of the present applicant is not required. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order :

- (i) The application is allowed.
- (ii) The applicant - Swapnil s/o Sheshrao Khadse in connection with Crime No.181/2024 registered with Police Station Wathoda, Nagpur for the offence punishable under Sections 354(D), 376 and 75 of the Indian Penal Code, be released on bail on executing PR bond of Rs.25,000/- with one surety in the like amount.
- (iii) The applicant shall not enter into the vicinity of Ram Nagar, Bahadura Road, Nagpur till the culmination of the trial.
- (iv) The applicant shall not induce, threat or promise any witnesses in any manner who are acquainted with the facts of the case.
- (v) The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)