



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

CRIMINAL APPLICATION (BA) NO.905 OF 2024
(Vinod s/o Vasanta Deshmukh Vs. State of Maharashtra)

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

Court's or Judge's Order

Ms J.S. Kurwe, Advocate for the applicant.
Mr. K.R. Lule, APP for the State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- OCTOBER 14, 2024.

By this application, the applicant is seeking bail as he came to be arrested on 28/05/2024 in connection with Crime No.251/2024, registered with Police Station Bhiwapur, District Nagpur for the offence punishable under Sections 376(2)(n) and 506 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged by the victim aged about 26 years on an allegation that on 23/05/2024 at about 9:00 AM when she was alone in the house, present applicant who is her cousin called her at his house on the pretext of performing the pooja, therefore, she went at his house and when she was returning, the applicant restrained her and subjected her for forceful sexual assault. The applicant has allegedly repeated the said incident in the evening also. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that the applicant is implicated in the alleged offence out of the previous enmity. As far as lodging of the FIR is concerned the same was lodged on 27/05/2024 when the alleged incident has taken place on 23/05/2024 i.e. after five days of the incident and there is no explanation for the said delayed FIR. She submitted that at the most it appears from the statement of the witnesses that the act was consensual in nature. Now, the investigation is completed and charge-sheet is filed, further incarceration of the applicant is not required. In view of that, the applicant be released on bail.

4. Learned APP strongly opposed the application and submitted that considering the statement of the victim who has alleged that she was subjected for forceful sexual assault is substantiated by the statement of the other witness who has seen the presence of the present applicant near the house of the victim. Thus, considering the same, 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 relationship appears to be consensual in nature. However, when the consent was obtained by force or there was no consent at all is a matter of evidence. At this stage, the investigation is completed, charge-sheet is filed, further incarceration of the applicant is not required. In view of that, the application deserves to be allowed.

Accordingly, I proceed to pass the following order:

- (i) The application is allowed.
- (ii) The applicant – Vinod s/o Vasanta Deshmukh in connection with Crime No.251/2024, registered with Police Station Bhiwapur, District Nagpur for the offence punishable under Sections 376(2)(n) and 506 of the Indian Penal Code, be released on bail on executing PR. Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount.
- (iii) The applicant shall attend the proceedings before the Special Court regularly without seeking any exemption unless there are exceptional circumstances.
- (iv) The applicant shall not enter into the vicinity of village Bhiwapur, District Nagpur, till culmination of the trial.
- (v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case either physically or by way of electronic media.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)