



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD.

911 CRIMINAL APPLICATION NO. 2954 OF 2025
IN APEAL/585/2025

Sanjay Govindrao Gadge

VERSUS

The State Of Maharashtra And Another

...

Mr. Anil M. Gaikwad - Advocate for Applicant

Mr. B. B. Bhise - APP for State

Mr. Ashok Dinkar Raut - Advocate for Respondent No. 2 – Victim
(appointed through Legal Aid)

...

CORAM : NEERAJ P. DHOTE, J.

DATED : 25TH SEPTEMBER, 2025

PER COURT : -

1. This is an Application for Suspension of the Substantive Sentence imposed upon the Applicant by the learned Extra Joint Additional Sessions Judge-1, Nanded, *vide* the Judgment and Order dated 10.07.2025 passed in Sessions Case No. 67 of 2022, convicting the Applicant for offence punishable under Section 376 of the Indian Penal Code [in short, "IPC"] and sentencing him to suffer Rigorous Imprisonment for ten [10] years and pay a fine of Rs. 5,000/-, and in default of payment of fine, to suffer Rigorous Imprisonment for one [1] month.

2. The case of the Prosecution, in brief, is as follows: -

2.1. Respondent No. 2 – Victim was residing along with her family in village Chikala, Dist. Nanded. She was an agricultural labourer.

On 20.12.2021, she, along with her husband, went to their agricultural field and thereafter her husband left for another village. The agricultural field of the Applicant/Appellant is near to the field of the Victim. The Applicant/Appellant caught hold of her hand and committed rape on her in between 05:30 pm to 06:00 pm. Though the Victim cried for help, no one came to rescue her. In the meantime, her husband arrived on the spot and the Applicant/Appellant ran away. On the night of the next day i.e. 21.12.2021, the incident was reported to the Tamsa Police Station, District Nanded, and Crime came to be registered for the offence punishable under Section 376 of the Indian Penal Code.

3. Heard the learned Advocate for the Applicant/Appellant, the learned APP for the State, and the learned Advocate appointed to represent Respondent No. 2.

4. The Victim is examined as PW.1. She deposed that, on 20.12.2021, the Applicant/Appellant committed forcible rape on her in between 05:30 p.m. to 06:00 p.m. In the meanwhile, though she cried for help, no one came for her rescue. In the meantime, her husband arrived. Her evidence shows that, she informed her husband about the incident and thereafter to her in-laws. Thereafter, she called her brother and left along with him to her parental house at Brahmawadi, and on the next day, she lodged a report with the Police Station. The evidence of the Victim's husband, who is examined as PW2, shows that, on

20.12.2021, he, along with the Victim, went to their agricultural field, and thereafter he left for Tamsa village at 03:00 pm. for bank work. He returned to his field around 04:50 pm to 05:00 pm and saw his wife and the Applicant/Appellant in a compromising position. His evidence shows that, after his arrival, the Applicant/Appellant ran away from the spot and the Victim was in lying position and was crying for help. His evidence further shows that she informed her husband that the Applicant/Appellant committed forcible intercourse with her.

5. Undisputedly, the Victim was aged 25 years at the time of the incident. Though the Victim in her evidence deposed that she cried for help, the evidence of husband nowhere shows that he heard the cries of his wife for help. He noticed the Applicant/Appellant in a compromising position when he reached the spot. This indicates that the relations between his wife and the Applicant/Appellant were consensual. The medical evidence shows old healed hymenial tears present. Though the medical evidence indicates three [3] injuries in the nature of abrasion on the front side of the Victim, that by itself would not be sufficient to hold that the act was against her wish. The opinion of the Medical Officer is, “*examination findings are within normal limits, which neither refute nor confirm possibility of sexual intercourse. Evidence of application of force are present. Samples are kept for FSL analysis*”.

6. Further, though it was rape against the wish of the Victim, it is strange that she went to her parental house, and the report was lodged with the Police Station late evening of 21.12.2021, i.e. after a period of more than 24 hours. This again fortifies the possibility of consensual relations between the Applicant and the Victim, and lodging the report at the instance of her husband.

7. The sentence awarded to the Applicant/Appellant is a term sentence of ten [10] years imprisonment with fine. The Applicant/Appellant was on bail during the trial and suffered a total five (5) month's imprisonment. He has paid the fine. The Appeal is of 2025, and is not likely to come up for final hearing in the near future. In view of the above, I am inclined to pass the following order.

ORDER

[i] The Application is allowed.

[ii] The sentence imposed upon the Applicant by the learned Extra Joint Additional Sessions Judge-1, Nanded, *vide* the Judgment and Order dated 10.07.2025 passed in Sessions Case No. 67 of 2022, is hereby suspended till the final disposal of the Appeal. In the meantime, the Applicant/Appellant be released on bail on his furnishing personal bond of Rs.25,000/-, with one surety in the like amount.

- [iii] The Applicant shall not tamper with the prosecution evidence, and shall not leave Nanded District until the disposal of the Appeal.
- [iv] Bail before the Trial Court.
- [v] The fees of the learned Advocate Mr. Ashok Dinkar Raut appointed to represent the Respondent No. 2 / Victim is quantified at Rs. 10,000/- [Rupees Ten Thousand], which shall be paid by the High Court Legal Services Sub-Committee, Aurangabad Bench.

[NEERAJ P. DHOTE]
JUDGE

SG Punde