

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY  
CRIMINAL APPELLATE JURISDICTION  
INTERIM APPLICATION NO. 652 of 2025  
in  
CRIMINAL APPEAL NO. 808 of 2024**

Manish @ Pappu Ramkhelavan Yadav ... Applicant/s  
Appellant/s

versus

The Union of India and anr. .... Respondent/s

Ms. Keral Mehta, Advocate for the Applicant/Appellant (Appointed Advocate).

Mr. Ashwin Thool along with Mr. Ayush Singh and Advocate-Archishmati Chandrdamore, Advocate for Respondent No.1-Union of India.

Mr. H. J. Dedhia, APP for Respondent No.2-State.

**CORAM : R. M. JOSHI, J.**

**DATE : 11<sup>th</sup> NOVEMBER, 2025.**

**P.C. :**

1. This application is for suspension of sentence and enlargement of the applicant/appellant on bail in connection with judgment and order dated 20<sup>th</sup> June 2022 passed in Sessions Case No.1 of 2020, whereby the appellant is convicted for the offences punishable under Sections 376 and 506 of the Indian Penal Code 1860 and sentenced to suffer 10 years Rigorous Imprisonment with fine.

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2. On 19<sup>th</sup> December 2019, victim wanted to speak to her mother and asked for mobile phone from her neighbour who was unable to provide the same for want of balance of data. She reached to the gate of Radha Madhav Company and found watchman sitting at the gate of the company. She requested him to allow her to use his mobile phone to call her mother. The said watchman gave his mobile phone to the victim and asked her to go inside the room to talk. Thereafter, he entered the room and on the point of knife, committed rape on the victim. The victim returned home and on the next day morning, told the incident to her husband, who then, immediately came to the spot wherein the watchman was identified by the victim and an offence came to be registered against him. On completion of the investigation, charge-sheet was filed before the competent Court. The prosecution examined in all 7 (seven) witnesses including the victim, Medical Officer and other witnesses to bring home the guilt of the accused. The learned Trial Court accepted the case of the prosecution and convicted the accused and sentenced him to suffer Rigorous Imprisonment for 10 (ten) years.

3. Learned counsel for the applicant/appellant, at the outset, submits that the appellant is in jail since the time of his arrest ie. on 10<sup>th</sup> December 2019 and having regard to the fact that the appeal is not likely to be heard in short period of time, he deserves to be enlarged on bail. On merit, it is submitted that that there is delay in lodging of the FIR, in the sense, the victim has not disclosed the incident to her husband

immediately. This according to her creates doubt about the version of the victim. It is further argued that the testimony of the victim does not get support from the medical evidence as no injuries are found on her person. It submitted that in case of rape, there would be resistance from the victim, which would lead to causing of injuries on her person. It is also argued that there is no evidence with regard to the mobile number of the mother of the victim in order to accept her case that she had made a phone call from the mobile phone of the accused. On these, amongst other submissions, enlargement on bail is sought.

4. Learned APP and learned Counsel for Respondent No.1 opposed the application by pointing out that the victim was 19 year old at the time of the incident and was new to the said place. According to them, it would be obvious that a young girl would show hesitance in disclosing such incident to husband with fear of repercussions. It is his contention that there is absolutely no reason for her to falsely implicate the accused in this crime. It is submitted that since the rape was committed on the point of knife, the resistance was not registered by her and consequently, no injuries are appearing on her person. It is also submitted that since the victim was a married woman, non appearance of the injuries on her private part also is not uncommon. He drew attention of the Court to the findings recorded by the Trial Court in respect of CDR of mobile of accused, which indicates of call being made at the relevant time from his mobile phone, which is reflected to be the mobile number of the mother of

the victim in the FIR. It is his submission that since this is a case of ravishing of woman, the appellant is not entitled for bail.

5. There cannot be any presumption that in case of sexual assault there would always be injuries on the person of the victim. Prima facie perusal of the record indicates that on the point of knife and by threatening her, forcible physical relations were established by the appellant with the victim. In such circumstances, this Court finds substance in the contention of learned counsel for respondent No.1 with regard to there being no resistance by the victim to the accused due to the fear of death. Insofar as the phone call made from the mobile phone of the accused is concerned, as rightly observed by the Trial Court that in the FIR, mobile number was given by the victim of her mother and there was no reason for her to know about the call being made on said number from the mobile phone of the accused if she had not called and talked to her mother.

6. It is settled position of law merely because some time has been spent by the convict in the jail, he does not necessarily deserve to be enlarged on bail. For that purpose, he has to make out reasonable case of success on merit in the appeal. In the instant case, prima facie consideration of record, does not indicate so.

7. As a result of above discussion, the application stands dismissed.

8. It is clarified that the observations made hereinabove are prima facie in nature and will not come in way of either side during the hearing of the appeal.
9. Hearing of criminal appeal stands expedited.

**(R. M. JOSHI, J.)**