



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

CRIMINAL APPLICATION (BA) NO. 144 OF 2025

Asaram s/o Dodku Kulmate

Vs.

State of Maharashtra, through Police Station Lakhani, District Bhandara
and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Ms. Shubhada K. Phaltankar, appointed Counsel for the applicant.

Ms. M. A. Barabde, APP for non-applicant No.1/State.

Mr. S. B. Taywade, appointed Counsel for the non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 09/04/2025

1. The applicant came to be arrested on 24.05.2023 in connection with Crime No. 178/2023 registered with Police Station, Lakhani, District Bhandara for the offence punishable under Sections 376(2)(j), 376(2)(n), 376(3), 506 of the Indian Penal Code and under Sections 4 and 6 of the Protection of Children from Sexual Offences Act.

2. The crime is registered against the present applicant on the basis of the report lodged by the mother of the victim girl on an allegation that her daughter aged about 15 years and 1 month was subjected for sexual assault by the present applicant and this fact came to her knowledge as she has observed that her daughter is not receiving the menstrual period, and therefore, she took her

daughter for the medical examination and it revealed that she is carrying the pregnancy. On inquiry with the victim girl, she has disclosed that the present applicant has subjected her for forceful sexual assault which resulted into her pregnancy. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that the applicant is aged about 75 years old and in view of the scheme by the National Legal Services Authority for the Old Prisoners and Terminally Ill Prisoners wherein the prisoners who are old aged can file an application for grant of bail and that application requires to be considered by the Court. Thus, considering the applicant is 75 years old and therefore, in view of the said scheme, he be released on bail.

4. Learned APP for the State and learned appointed Counsel for the non-applicant No.2 – victim strongly opposed for the same and submitted that the applicant, who is 75 years old has subjected the minor victim girl for forceful sexual assault, which resulted into her pregnancy. The DNA reports are yet to be received. Considering the statement of the victim girl, the *prima facie* case is made out against the applicant. In view of that, the application deserves to be rejected. Learned APP further submitted that the criteria given under the scheme

wherein the applicant is not fitted, and therefore, he is not entitled for grant of bail.

5. After hearing both sides and on perusal of the investigation papers, it reveals that as per the recitals of the FIR and the statement of the victim which is recorded from which it reveals that the minor victim girl was subjected for the sexual assault by the present applicant, she carried the pregnancy. The DNA reports are yet to be received. Thus, as far as the involvement of the present applicant in the alleged offence is concerned, which reveals from the statement of the victim girl and the statement of the other witnesses.

6. The application is filed by the applicant under the scheme floated by the National Legal Services Authority. The introduction of the said scheme shows that old prisoners and Prisoners with Terminal Illness face difficulties in navigating the prison environment, require frequent health check-ups, need special diets, and frequent meetings with their family and friends. Such prisoners would require specialised care and individual attention, which may not be possible for the prison authorities to provide, thus leading to aggravations in their medical condition and also often leading to issues of mental illness. As per the clause No.1.4(a) the older prisoners are considered and it is contended that assistance to older prisoners in accessing legal

counsel, legal and paralegal aid services from the outset of their detention and to provide additional support to older prisoners with mental or physical disabilities, as required, to ensure that they are not discriminated against in their access to justice and treatment in the criminal justice system. Release on compassionate grounds older prisoners who are in need of constant specialist nursing care, and who do not pose a risk to society, transferring them to an appropriate institution in the community. Encourage and facilitate contacts between older prisoners and legal aid services at the appropriate stage, in order to assist such prisoners in gaining early conditional and compassionate release. Thus, in view of the said scheme, the person who are in need of constant specialist nursing care, and older prisoners are considered to be released on bail. As far as the present applicant is concerned, except his old age there is no other document on record to show that he is in need of specialist nursing care constantly or he is suffering from mental or physical disabilities and therefore, in view of the said scheme, the applicant is not entitled for grant of bail. Moreover, the allegations against the present applicant is of a serious nature. The DNA report is yet to be received. The applicant is at liberty to approach to this Court for grant of bail after receipt of the DNA report.

7. Learned APP is requested to seek appropriate instructions as to the receipt of the DNA

report and considering the applicant is arrested on 24.05.2023 and his incarceration is more than one and half years. The prosecution shall take effective steps to obtain the DNA report and proceed with the trial.

8. In view of the above observations, the application is rejected.

9. The fees of the appointed Counsel for the applicant and non-applicant No.2 be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)