



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

CRIMINAL APPLICATION (BA) NO.418 OF 2025
(Akshay s/o Babulal Gajbhiye 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

Mr. R.M. Daga, Advocate for the applicant.
Mr. C.A. Lokhande, APP for the State.
Mr. K. Jain, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JULY 15, 2025.

By preferring this application, the applicant is seeking bail as he came to be arrested on 02/02/2025 in connection with Crime No.83/2025 registered with Police Station Katol, District Nagpur for the offence punishable under Sections 64(1) and 78 of the Bharatiya Nyaya Sanhita, 2023.

2. The crime is registered on the basis of report lodged by the victim girl aged about 25 years on an allegation that on 28/01/2025 at about 6.30 PM when she has been to answer the nature's call she was restrained by the present applicant, gagged her mouth and subjected her for the forceful sexual assault. At the relevant time, her brother suddenly came there and she was relieved by him. On the basis of the said report, police have registered the crime against the present applicant. He submitted that from the statement of the victim it reveals that it is an attempt to commit an offence. In fact, considering the

statement of the victim there are no such injuries found on the person as per her allegations. Moreover, FIR is lodged after four days of the incident and the reason assigned for the delay in the FIR is that she was admitted in the hospital but the investigation papers nowhere supports that she was admitted in the hospital. Now, the investigation is already completed, charge-sheet is filed, further incarceration of the applicant is not required. He further submitted it was the consensual sexual assault and to support the same he invited my attention towards the medical report which shows that hymen and tear are 6, 9, 11, 1 O'clock position old healed which sufficiently shows that she was habituated for the sexual activity.

3. Learned APP and learned Counsel for the victim strongly opposed the application and submitted that the statement of the victim is supported by the medical evidence. Learned APP also invited my attention towards the statement of the victim recorded under Section 183 of the BNS wherein also she has reiterated the said contention. In view of that, they prayed for rejection of the application.

4. On hearing both the sides and on perusal of the investigation papers it reveals that FIR is lodged after four days of the incident. As far as the reason assigned for the delay in FIR is concerned there is nothing on record to show that she was admitted in the hospital. On perusal of the statement shows that there was an attempt to sexually

abused and assaulted her. There was another crime registered against him, from which he is already acquitted. Thus, there are no criminal antecedents against the present applicant. The involvement of the present applicant reveals from the investigation papers but considering now, investigation is completed and 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 – Akshay s/o Babulal Gajbhiye in connection with Crime No.83/2025 registered with Police Station Katol, District Nagpur for the offence punishable under Sections 64(1) and 78 of the Bharatiya Nyaya Sanhita, 2023, be released on bail on executing a PR.Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount.

(iii) The applicant shall not enter into the jurisdiction of police station Katol, District Nagpur till the culmination of the trial.

(iv) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the

facts of the present case either personally or by way of electronic media.

(v) The applicant shall attend the proceedings before the Special Court without seeking any exemption unless there are exceptional circumstances.

(vi) The applicant shall furnish his detailed address along with the address proof wherein he is intending to reside after he is released on bail, before the investigation agency.

(vii) A single incident of tampering of the witnesses would lead to the cancellation of bail.

5. The contravention of any of the condition imposed by this Court would lead to the cancellation of bail.

6. The application is disposed of.

7. The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)