



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

CRIMINAL APPLICATION (BA) NO.557 OF 2025

Achit @ Ajit s/o Dashrath Meshram
Vs.

State of Maharashtra, through Police Station Officer, Bhiwapur, Nagpur

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

Court's or Judge's orders

Mr. Nihalsingh Rathod, Counsel h/f Mr. S. N. Nandeshwar, Counsel for the applicant.

Mr. Aditya Gohokar, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 14/07/2025

1. The applicant came to be arrested on 21/03/2024 in connection with Crime No.120/2024 registered with Police Station Bhiwapur, District Nagpur for the offence punishable under Sections 376(D), 452, 506 read with Section 34 of the Indian Penal Code, 1860.

2. The crime is registered on the basis of the report lodged by the victim aged about 30 years, on an allegation that the present applicant and the other co-accused entered in a house during the night hours, and present applicant subjected her for the forceful sexual assault. At the relevant time, the other co-accused was present and was holding her. On the basis of the said report, police have registered the crime against the present applicant.

3. Heard learned Counsel for the applicant, who submitted that, as far as the allegations of sexual assault are concerned, in the light of the fact that she has alleged that she has dragged and thereafter she was subjected for the forceful sexual assault. No external injuries are found on her person and she is examined after 7 to 8 hours of the incident. He also invited my attention towards the medical report and submitted that the history narrated by the victim is also taken into consideration, wherein she has specifically stated that the present applicant dragged her on the floor by pulling her hair and sexually assaulted. As far as the injury on genitals is concerned, it shows to be normal. He has also invited my attention towards the medical certificate of the present applicant wherein he has narrated the history and stated that there was a consensual relationship between him and the victim and they had such types of the physical relationship 5 to 6 occasions prior to this. Initially, bail application was withdrawn and liberty was granted to the present applicant to file afresh after CA reports are received. Now CA reports are before the Court which shows that semen stains are found on the clothes of the victim and not on the clothes of the present applicant. He submitted that now the investigation is already completed, charge-sheet is already filed. The applicant cannot be incarcerated for indefinite period. In view of that he be released on bail.

4. Learned APP strongly opposed the said application and submitted that the spot panchnama shows the present applicant entered into the house by breaking the door of the house itself is sufficient to show the intention of the present applicant. There are injuries on the person of the victim. She was subjected for the forceful sexual assault by the present applicant. The DNA report is yet to be received. In view of that, the application deserves to be rejected.

5. On hearing both sides and on perusal of the investigation papers, it reveals that as per the allegation, the present applicant and the another co-accused entered into the house by breaking the door. The spot panchnama also substantiates the same. At the same time, when the history was narrated by the victim that she was dragged by pulling her hair, no injuries were found on a person itself on abrasion and on dorsum of foot 0.5X0.5 cm. As far as the forceful sexual assault is concerned, the examination of the genitals shows that it was normal. The history narrated by the present applicant is also requires to be taken into consideration. At this stage, now investigation is already completed, charge-sheet is already filed, the CA reports shows the semen stains on the clothes of the victim and there are no semen stains found on the clothes of the accused/applicant. Considering the fact that now the DNA report will take its own time to receive and the

applicant cannot be kept behind bar for indefinite period. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is allowed.
- (ii) The applicant – **Achit @ Ajit s/o Dashrath Meshram** shall be released on bail in connection with Crime No.120/2024 registered with Police Station Bhiwapur, District Nagpur for the offence punishable under Sections 376(D), 452, 506 read with Section 34 of the Indian Penal Code, 1860, on executing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall not enter into the vicinity of village Bhiwapur, District Nagpur till culmination of the trial.
- (iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.
- (v) The applicant shall attend the proceedings before the trial Court without seeking any exemption unless there are exceptional circumstances.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)