



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

CRIMINAL APPLICATION (BA) NO. 844 OF 2025

Jayesh Naresh Gabhane Vs State of Maharashtra and another.

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. S.S. Bhalerao, counsel for applicant.

Mr. N.B. Jawade, APP for non-applicant/State.

Ms Ayushi Dangre, counsel (appointed) for non-applicant No.2.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 04/08/2025.

1. The applicant came to be arrested on 20/02/2025 in connection with Crime No. 173 of 2025 registered with Police Station M.I.D.C, Tah. and District Nagpur for the offence punishable under Section 65(1) of Bhartiya Nyaya Sanhita, 2023; and Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012; and Section 3(1)(w)(ii), 3(2)(v) of the Scheduled Caste and Scheduled Tribes Prevention of Atrocities Act, 1989 (for short 'the Atrocities Act')

2. The crime is registered on the basis of a report lodged by the victim girl, aged about 15 years, on an allegation that she got acquaintance with the present applicant in October 2024. Thereafter, they exchanged mobile phones with each other. Initially, friendship was developed between them, which resulted into love affair. On the promise of marriage, the present applicant subjected her for the forceful sexual assault, which

resulted into the pregnancy. Subsequently, the pregnancy was aborted. 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 statement of the victim also discloses that there was a love affair between the victim and the present applicant, out of the love affair, the physical relationship was developed between them. He further submitted that, now investigation is already completed charge-sheet is already filed, further incarceration of the present applicant is not required.

4. Learned APP and learned counsel for the victim strongly opposed for the same and submitted that, considering the tender age of the victim, who was only 14 years old, she was not aware of the consequences of the act and she was subjected for the sexual assault by the present applicant. The WhatsApp messages between the present applicant and the mother of the victim are there, which shows that the messages are to the extent of hospital expenses. They both have submitted that considering that by taking disadvantage of the victim's tender age, as she was not aware about the consequences of the act, the applicant, who is of mature age, subjected her for sexual assault. The consent of the victim is not relevant, 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 initially there was an acquaintance between both of them, which resulted into the friendship, and the friendship resulted into the love affair. The allegations further shows that the victim, after school hours, did not return home but went along with the present applicant, wherein he took her to one flat, and a physical relationship developed between them. This resulted in her pregnancy, which was subsequently terminated. Admittedly, the consent of the victim is not relevant, but considering the circumstances under which the alleged incident has taken place, the applicant is also of her age of 20 years old. As far as whether the consent was obtained or consent was there or not, whether it was under a misconception of fact, it is a matter of evidence. At this stage, only because the investigation is now completed, charge-sheet is filed, though the involvement of the applicant is revealed, his further incarceration is not required, and therefore, the application deserves to be allowed. Accordingly, I proceed to pass the following order.

- a] The criminal application is **allowed**.
- b] The applicant- ***Jayesh Naresh Gabhane*** shall be released on bail in connection with Crime No. 173 of 2025 registered with Police Station M.I.D.C, Tah. and District Nagpur for the offence punishable

under Section 65(1) of Bhartiya Nyaya Sanhita, 2023; and Sections 4, 6 and 8 of the Protection of Children from Sexual Offences Act, 2012; and Section 3(1)(w) (ii), 3(2)(v) of the Scheduled Caste and Scheduled Tribes Prevention of Atrocities Act, 1989, on furnishing PR. Bond of Rs. 25,000/- with one solvent surety in the like amount.

- c] The applicant shall not enter into the jurisdiction of MIDC police station till culmination of the trial.
- d] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the present case either personally or through the electronic media.
- e] The applicant shall attend the proceeding before the trial Court without seeking any exemption unless there are exceptional circumstances.
- f] The fees of the appointed counsel be quantified as per Rule.

The criminal application is **disposed of**.

[URMILA JOSHI-PHALKE, J.]