



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

CRIMINAL APPLICATION (BA) NO. 736 OF 2025

Gajanan Tulsiram Durge Vs The State Of Maharashtra

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

Court's or Judge's Order

Mr. A.S. Shukla, counsel (appointed) for applicant.

Mr. V.A.Thakre, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 22/08/2025.

1. The applicant came to be arrested on 19/01/2024 in connection with Crime No. 550/2024 registered at Police Station Borgaon Manju, Akola, for the offence punishable under Sections 64, 64(2)(f), 64(2)(k), and 332(b) of Bhartiya Nyaya Sanhita, 2023, with Section 92(d) of the Persons with Disabilities Act, 2016.

2. The crime is registered on the basis of a report lodged by the victim girl, on an allegation that on 18/12/2024 at about 9.30 p.m., her maternal uncle had gone to the house of her other maternal aunt for taking meal. At about 10.00 p.m., when she was asleep, somebody removed her blanket, and therefore, she witnessed that the present applicant, who resided in the house, had forcefully disrobed her and subjected her for forceful sexual assault. As she shouted, the other persons gathered there, and they saw the present applicant, the present applicant in a disrobed condition.

On the basis of the said report, police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that there is doubt regarding whether the act was committed with consent of the victim girl or not. The statements of the witnesses from nowhere disclose that they came there due to the shouting of the victim. The statements of the witnesses show that they came there as people were already gathered there. There are no injuries on the person of the victim, and therefore, the entire story narrated by the victim appears to be doubtful.

4. Per contra, learned APP strongly opposed the said application on the ground that considering a handicapped woman was subjected for forceful sexual assault by the present applicant and he was witnessed by various witnesses at the spot, itself is sufficient to show his involvement in the alleged offence. In view of that, the application deserves to be rejected.

5. On hearing both sides and on perusal of the investigation papers, as far as the consent is concerned, at this stage, there is nothing on record to show that it was a consensual act. Although the investigation is completed, but considering the fact that the victim girl, who was handicapped and suffering from polio, was subjected for the forceful sexual assault by the present applicant by finding her alone in the house. In view of

that, the application deserves to be rejected. Accordingly, I proceed to pass the following order.

ORDER

- a] Criminal Application stands **rejected**.
- b] The above said observations are only for the purpose of grant of bail and the trial Court shall not be influenced by the said order.
- c] The fees of the appointed counsel be quantified as per rule.

[URMILA JOSHI-PHALKE, J.]