



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

CRIMINAL APPLICATION (BA) NO.776 OF 2025

Mohd Tausif Mohd Kalim

Vs.

State of Maharashtra, through Police Station Officer, Police Station
Kalamna, Nagpur, District Nagpur and another

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

Court's or Judge's orders

Mr. P. M. Ukey, Counsel for the applicant.
Mr. V. A. Takhare, APP for non-applicant No.1/State.
Ms. Punam Pisurde, appointed Counsel for the non-applicant No.2.

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

1. The applicant came to be arrested on 15.12.2024 in connection with Crime No.923/2024 registered with Police Station Kalamna, Nagpur District Nagpur for the offence punishable under Sections 64, 65(1) of the Bhartiya Nyaya Sanhita, 2023 and Sections 4 and 6 of the Protection of Children from Sexual Offences Act.

2. The crime is registered on the basis of the information received from the child help line that the father of the victim girl has informed that the behaviour of the victim girl is not proper and the mother of the victim girl is bedridden therefore, the child help line agency kept her in a shelter house and made inquiry, at that time, it was revealed that the present applicant is in contact with her on WhatsApp

and by inducing her to pay money had committed forcible sexual assault on her. At the time of the incident, she was only 12 years of old. On the basis of the said information, police have registered the crime. The statement of the victim was also recorded. She narrated the incident that the present applicant was in her contact has promised her for payment of money and used to call her on various occasions and subjected her for the forceful assault. On the basis of the said statement and the medical examination carried out of the victim, it revealed that she was subjected for the forceful sexual assault and therefore, the crime was registered.

3. Heard learned Counsel for the applicant, who submitted that from the statement of the victim girl except it reveals that it was the victim, who was calling the present applicant and she joined the company of the present applicant, and thereafter there was a physical relationship was developed between them. Thus, considering the statement of the victim, no offence is committed by the present applicant. In view of that, the application deserves to be allowed.

4. Learned APP and learned appointed Counsel for the non-applicant No.2 – victim strongly opposed the said application and submitted that the application filed by the applicant itself is by suppressing the material fact. Though the applicant

is 38 years old man and married person, he has represented himself in the application as 24 years old man. They have invited my attention towards the arrest panchnama as well as the grounds of arrest which are communicated to the wife of the present applicant, which reveals that the applicant is not only a 38 years old man, but also a married person. The statement of the victim girl also shows that he was in contact with the victim and promising her for paying the money, she was subjected for the forceful assault. Considering the circumstances under which the victim was promised and subjected for the forceful sexual assault, it was the intention act of the present applicant and therefore, they prayed for rejection of the application.

5. On hearing both sides and on perusal of the investigation papers, it reveals that there is a substance in the contention of the learned Counsel for the victim as well as learned APP that the applicant has concealed the fact that he is aged about 38 years old man and a married person. It further reveals that the applicant promised her for payment of money and on that count, he developed the acquaintance with her and thereafter, subjected her for the forceful sexual assault on the various occasions. The medical certificate also substantiates the said contentions. Considering the intention of the present applicant and considering the fact that several material facts are suppressed by the

applicant from the Court, the application deserves to be rejected. Accordingly, I proceed to pass following order:

ORDER

- (i) The application is rejected.
- (ii) The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)