



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

CRIMINAL APPLICATION (BA) NO. 1206 OF 2024

Abdul Majid Abdul Wadud @ Waddu
.Vs.

The State of Maharashtra thr. PSO, PS Kapil Nagr, Dist. Nagpur and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions Court's or Judge's orders.
and Registrar's Orders.

Mr C.R. Thakur, Advocate for the applicant.
Mr Mrunal Barbade, APP for State.
Mr. A.V. Karnawar, Advocate for non-applicant No.2.

CORAM : G.A. SANAP, J.
DATE : 10.02.2025

Heard.

2. By this application, the applicant has prayed for regular bail in Crime bearing No. 272 of 2024 registered at Kapil Nagar Police Station, District Nagpur City for the offence punishable under Section 64(1) of the Bharatiya Nyaya Sanhita, 2023.

3. Learned Advocate for the applicant would submit that the facts recorded in the first information report as well as brought on record through the statement of hotel boy would show that the victim girl was instrumental in booking the room. It is pointed out that out of Rs.1200/- she paid

Rs.1100/- and the accused paid Rs.100/-. Learned Advocate would submit that it is a case of consensual act. The consensual act is now sought to be given colour of forcible intercourse. Learned Advocate would submit that subsequent conduct of the victim girl is not consistent. It is pointed out that after leaving the hotel room the victim girl instead of going back to her house stayed at garden during whole night. It is submitted that this circumstance is in favour of the accused. Learned Advocate would submit that trial may take its own time for completion. Further incarceration may not be necessary. It is submitted that accused is ready to abide by the conditions that may be imposed by the Court.

4. Learned APP and learned Advocate for the victim would submit that on the date of the incident victim was hardly 18 years and 11 months old. It is submitted that the accused mixed some drug or substance in the cold drink. The victim girl thereafter felt dizziness and in this condition she was subjected to sexual intercourse. They would further submit that after this unfortunate incident, the victim girl was terribly frightened and therefore, instead of going to the house she went to the garden and stayed there whole night till next day up to 10.00 am. They would further submit that the crime is very serious. If the accused is granted bail then he would threaten the victim and the witnesses. There is possibility of tampering with the prosecution evidence.

5. I have gone through the first information report. I have perused the statements of the witnesses. The victim girl in her report itself has stated that the accused was her friend. It is not the case of the prosecution that forcefully the victim girl was dragged in the room by the accused and thereafter she was subjected to sexual intercourse. The statement of the waiter would show that after taking dinner they booked the room. The victim girl paid Rs.1100/- and the accused paid Rs.100/-. Perusal of the medical examination report would show that there was hymen tear. At the stage of final adjudication the Court would be required to decide whether alleged act was with consent of the girl or against her will and consent.

6. After bestowing thoughtful consideration to the submissions and record, in my opinion, this is a fit case to exercise discretion in favour of the accused. In the teeth of the material referred to above, he can not be denied bail. Trial may take its own time for adjudication. The detention of the accused in the factual situation for indefinite period may not be necessary. The apprehension *put forth* by the learned APP and learned Advocate for the victim can be taken care of by imposing appropriate conditions. Accordingly, I pass the following order:

- i) Criminal application is allowed.

ii) Applicant- Abdul Majid s/o Abdul Wadud @ Waddu be released on bail in Crime No.272/2024, registered with Police Station Kapil Nagar, District: Nagpur City for the offence punishable under Section 64(1) of the Bharatiya Nyaya Sanhita, 2023, on his furnishing P.R. Bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand only) with one surety in the like amount.

iii] The applicant shall not in any way tamper with the prosecution evidence.

iv] The applicant shall not pressurize or threaten the prosecution witnesses.

v] The applicant shall co-operate the investigating officer.

vi] The applicant shall not enter Nagpur City till completion of trial except the purpose of attending the trial.

vii] It is made clear that the above

observations made by the Court for limited purpose for deciding this application, learned Judge shall not get influence by the same while deciding the main case.

7. The Criminal Application stands **disposed of** accordingly.

(G. A. SANAP, J.)

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