



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

CRIMINAL APPLICATION (APPA) NO. 958 OF 2025
IN
CRIMINAL APPEAL NO. 567 OF 2025

PRAKASH S/O. DEVIDAS KHAPARDE
VS
STATE OF MAHARASHTRA AND ANR.

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

Court's or Judge's order

Ms. Sonali Saware-Gadhawe, Advocate (appointed) for appellant.
Shri B.M.Lonare, APP for respondent/State.
Ms. Deepali Patil-Sahare, Advocate (appointed) for respondent no. 2.

CORAM : NEERAJ P. DHOTE, J.
DATE : 12/02/2026

This is an Application for suspension sentence imposed by the Additional Sessions Judge, Nagpur, by Judgment and Order dated 06/12/2024 in Sessions Case No. 61/2023, convicting and sentencing the Appellant/Applicant as follows:-

“i) The accused Prakash Devidas Khaparde is convicted under Section 235(2) of the Code of Criminal Procedure for offence under Section 376(2) (f) of Indian Penal Code to suffer Rigorous imprisonment for ten years and fine of Rs.5,000/- (Rupees Five Thousand only) in default to suffer Simple Imprisonment for four months.

ii) The accused Prakash Devidas Khaparde is convicted under Section 235(2) of the Code of Criminal Procedure for offence under Section 506 of Indian Penal Code to suffer Rigorous imprisonment for two years and fine of Rs.3,000/-(Rupees Three Thousand only) in

default to suffer Simple Imprisonment for two months.

iii) The sentences to run concurrently.

iv) The accused is entitled to set off under Section 428 of the Code of Criminal Procedure.

v)

vi)

vii)

viii)

ix)”

2. The case of the prosecution as can be seen from the papers on record is that, when the victim was alone in her house on 09/11/2022 in the afternoon, the Appellant who was known to her, came to her house and raped her. The victim informed about the incident to her mother after two days. The incident was reported to the Police and Crime No. 731/2022 came to be registered with the Jaripatka Police Station for the offences punishable under Sections 376(2)(f) and 506 of the Indian Penal Code (for short, ‘I.P.C.’). After investigation, the Appellant came to be charge-sheeted. The trial resulted in the impugned Judgment and Order.

3. It is submitted by the learned counsel for the Appellant that, the medical evidence does not corroborate the testimony of the victim. There can be many reasons for Hymen to get tear. The conviction cannot rest on the

testimony of the victim as there were consensual relations. She submits that, the Application be allowed.

4. The Application is opposed by the learned APP for the State and learned counsel for Respondent no. 2 - Victim. They submitted that, the victim has deposed about the incident of rape. The medical evidence on record corroborated her testimony. This is not the fit case for suspension of sentence and Application be rejected.

5. With the assistance of both the sides, I have gone through the papers on record. The victim is examined as PW-2. Her testimony shows that, the Appellant is husband of her cousin sister. The Appellant used to send her message on the WhatsApp. She came to know it from the display picture that, it was the number of the Appellant. Her evidence shows that, on 09/11/2022 at about 12.30 p.m. when she was alone in the house, the Appellant came to her house and asked for water. When she went to get the water, the Appellant closed the door and went behind her in the kitchen. The Appellant pressed her mouth when she shouted. He threatened her to kill and forcibly committed sexual intercourse. Her testimony shows that, she informed her parents about the incident on 11/11/2022. Nothing has come in the cross-examination of the victim to create any doubt about the testimony. There is medical evidence in the nature of testimony of witness no. 6—Dr. Shreya Singh who examined the victim on 11/11/2022. The history recorded by the Medical Officer corroborated the testimony of the victim. The Hymen was found to be torn. The medical

examination report of the victim is brought on record in the evidence of this witness. The medical opinion is that, the sexual intercourse cannot be ruled out. There is injury to the Hymen. Considering the evidence on record, in my considered view, this is not the fit case to suspend the sentence. Hence, the following order:-

ORDER

- i) The Application is **rejected**.
- ii) For this Application, the fees of the learned Advocate Ms. Sonali Saware/Gadhawe appointed for the Appellant is quantified at Rs. 7,500/- [Rupees Seven Thousand Five Hundred Only], which shall be paid by the High Court Legal Services Sub-Committee, Nagpur.
- iii) For this Application, the fees of the learned Advocate Ms. Deepali Patil/Sahare appointed for the Respondent no. 2 is quantified at Rs.5,000/- [Rupees Five Thousand Only], which shall be paid by the High Court Legal Services Sub-Committee, Nagpur.

(NEERAJ P. DHOTE, J.)

B.T.K.