



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

CRIMINAL APPLICATION [B.A.] NO. 1186 OF 2025

Dhanraj S/o Suresh Kove

-- VERSUS --

The State of Maharashtra 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. A. Ananthakrishnan, Advocate for the Applicant.

Ms. M.H. Deshmukh, A.P.P. for the Non-applicant No.1/State.

Mr. Syed Salman Ali, Advocate (appointed) for the Non-applicant No.2.

CORAM : M.M. NERLIKAR, J.

DATE : JANUARY 22, 2026.

Heard.

2. The present application is filed seeking regular bail in Crime No.381/2025 for the offence punishable under Sections 137(2), 64(2)(i), 115(2) of the Bharatiya Nyaya Sanhita, 2023, (BNS), and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, (POCSO), registered with Police Station Gadchiroli, District Gadchiroli.

3. The report is lodged by the victim, who is aged about 16 years and 5 months, alleging that, initially, there was a love affair between the victim and the present applicant. It is alleged that, on 30/10/2024, at about 10:00 p.m., the present

applicant has forcefully taken her from her house, for two days to Chamorshi. After, returning home, the present applicant married the victim, and accordingly, only once sexual intercourse took place between them. However, in May, 2025, the applicant started drinking liquor and under the influence of liquor, he used to beat her and from 28/05/2025, the applicant has left her, and accordingly, the victim started residing with her parents. Based on these allegations, First Information Report came to be registered.

4. The learned counsel appearing for the applicant submits that applicant is 23 years of age and the victim is more than 16 years of age. He further submits that both of them got married, and thereafter, it appears that, there was sexual intercourse between the couple. He further submits that, by no stretch of imagination, the provisions under Section 64(2)(i), i.e., rape can be attracted. At the most, he submits that Section 85 of BNS, 2023, which is equivalent to Section 498-A of the Indian Penal Code, 1860, would be attracted, and therefore, submits that considering the consensual relationship he may be granted bail.

5. On the other hand, the learned A.P.P. and the learned counsel appearing for the Non-applicant no.2 vehemently opposes the application on the ground that, the victim was minor, she was just

16 years and 5 months at the time of incident. The applicant had taken her forcefully and committed sexual assault, and thereafter, under the influence of liquor, applicant use to beat her, and therefore, she has left the company of applicant. They further submit that considering the age of the victim, consent is immaterial, and therefore, bail may not be granted.

6. Upon perusal of the F.I.R. and the entire record, it appears that, admittedly, the applicant is 23 years of age and the present victim is 16 years and 5 months of age. It appears that he put marital card in nagoba temple. It further appears from the record that the applicant and the victim resided together for near about 8 months and they had sexual intercourse only on one occasion. After residing for 8 months, the applicant started harassing and ill-treating her under the influence of liquor. Considering the above facts and circumstances and the fact that the investigation is complete, charge-sheet is filed, I am inclined to grant bail.

7. The observations of this Court are *prima facie* in nature. The Trial Court shall not be influenced by the observations of this Court and the observations are restricted to this bail application only. Hence, the following order:-

ORDER

(i) The Criminal Application is **allowed;**

(ii) The applicant/accused (Dhanraj S/o Suresh Kove) be released on regular bail in connection with Crime No.381/2025 registered with Gadchiroli Police Station, District Gadchiroli, for the offence punishable under Sections 137(2), 64(2)(i), 115(2) of the Bharatiya Nyaya Sanhita, 2023, (BNS), and Sections 4 and 6 of the Protection of Children from Sexual Offences Act, 2012, (POCSO), on his furnishing a PR. bond of Rs.25,000/- (Twenty Five Thousand Rupees) with one solvent surety in the like amount;

(iii) The accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence;

(iv) The accused shall provide his residential address and cell number to Police Station concerned and shall not change his place of residence without prior intimation to the Investigating Agency;

(v) The accused shall attend each and every date of trial regularly. If he fails to attend the trial for two consecutive dates, or fails to comply with the aforesaid conditions, his default would entail the State to ask for cancellation of bail;

(vi) Fees of the appointed counsel be quantified and paid as per rules;

(viii) Pending Misc. Applications, if any, also stands disposed of.

[M.M. NERLIKAR, J]