

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

CRIMINAL APPLICATION NO. 1353 OF 2025

Mahendra s/o Namdeo Kumre

..VS..

State of Maharashtra

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

Court's or Judge's orders

Ms Vaishali Khadekar, Advocate a/b Ayush Gawande, Advocate
for the applicant.
Shri V.A. Thakre, APP for the State.

CORAM: M.M. NERLIKAR, J.
DATE : 28.01.2026.

Heard the learned Counsel for the applicant and
learned APP appearing for the State.

2. By way of this application, the applicant is
seeking bail in connection with Crime No.439 of 2025
registered with the Pandharkawda Police Station, District
Yavatmal for the offence punishable under Sections
64(1), 332(b) and 351(3) of the Bharatiya Nyaya
Sanhita.

3. The FIR has been registered by the victim girl
aged 18 years of age against the present applicant
alleging forceful sexual assault without her consent.

4. Learned Counsel for the applicant submits that
the victim was more than 18 years of age at the time of
incident and it is a case of consensual sex. The applicant
and the victim were having a love affair with each other.
She was compelled to lodge the FIR as the minor cousin
of the victim saw both the victim and the applicant in a
compromising position. Further, there is no medical
report to support the allegation of rape as there are no

signs of forcible sexual intercourse in the entire medical report. Even the allegation of consumption of alcohol has not been proved in the medical report so far as the applicant is concerned. Therefore, she submits that the applicant is in jail from 27.05.2025, investigation is complete and charge-sheet has been filed, no purpose would be served by keeping the applicant behind the bar, hence prayed to allow the application and to enlarge the applicant on bail.

5. On the other hand, learned APP vehemently opposes the present application on the ground that the statement of the victim does not show that the act was consensual as the applicant was behind her and on the day of incident also when she had been to her aunt's house, there applicant by offering money to the minor cousin of the victim to buy a chocolate, lured her away and when she left the house for the same, the applicant has committed rape on the victim. The doctor's opinion of forceful sexual intercourse could not be ruled out and the final opinion is kept pending till the report of FSL. The statement of the cousin of the victim who is minor also shows that the present applicant was having sexual intercourse when she came in the house and therefore, she is the eye-witness to the said incident and therefore, prayed to reject the application.

6. I have heard the rival submission advanced by both the parties. It appears that the FIR was registered by the victim, wherein she alleged forceful sexual intercourse by the applicant without her consent in the house of her aunt at about 3.00 pm on 26.05.2025.

Thereafter, in the evening when the parents came she lodged the report alleging rape and accordingly, the FIR has been registered against the present applicant.

7. I have perused the statement of the victim as well as the statement of minor, who is the cousin of the victim. It appears that the entire episode happened when the minor was sent out of the house by the present applicant to buy chocolate by handing over some money. However, when sexual intercourse was going on, minor arrived there and she saw the couple in compromising position, and therefore, immediately the victim pushed the applicant away. The minor girl ran away from the spot to her maternal uncle's house. *Prima facie*, it appears that it was not a forceful act however it was consensual since the victim was of 18 years of age at the time of incident and only when the minor cousin arrived and saw them, she pushed the applicant away.

8. Considering the above facts and circumstances of the case, I am inclined to enlarge the applicant on bail, as the investigation is complete and charge-sheet has been filed, on certain terms and conditions. Hence, the following order :

(a) The application is allowed and disposed of.

(b) The applicant/accused Mahendra s/o Namdeo Kumre be released on regular bail in connection with Crime No.439 of 2025 registered with the Pandharkawda Police Station, District Yavatmal on furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount.

- (c) 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.
 - (d) 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.
9. All pending Misc. Applications, if any, shall also stand disposed of.
10. The observation of this Court are *prima facie* in nature and are restricted to this application. The Trial Court shall not be influenced by the same.

(M.M. NERLIKAR, J.)

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