



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

CRIMINAL APPLICATION (APL) NO.1050 OF 2025

Harish s/o Ramrao Dande and another
Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Washim, District Washim

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

Court's or Judge's orders

Mr. N. R. Tekade, Advocate for applicants.
Mr. N. B. Jawade, APP for non-applicant /State.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 22/01/2026

1. By this application, the applicants are challenging the order passed by the Sessions Judge, Washim, keeping the application Exh.30 in abeyance till completion of recording of the evidence of the victim.

2. Heard learned counsel for the applicants, who submitted that the applicants are arraigned as an accused on the basis of a report lodged by the non-applicant No.2 on an allegation that she was subjected for the forceful sexual assault by the applicant No.1 on the false promise of marriage, despite he is a married person. On the basis of a said report, police have registered the crime and after investigation, the charge sheet was submitted against the accused/applicants. The charges are already framed against the present applicants. During pendency of the trial, the victim has filed an application below Exh.30 for forwarding the

DNA samples of her as well as the applicant No.1 and the child delivered by her for DNA test. The said application was strongly opposed by the present applicants and the applicants/accused have also filed an application for seeking directions to obtain the sample and forwarding the same to the DNA analysis. The application of the applicants is rejected. The order of rejection of the said application is challenged before this Court. It is contention of the learned counsel for the applicants that initially, the applicants/accused has filed an application for obtaining the sample for DNA analysis. At that time, the said application was strongly opposed by the victim and she denied and subsequently she filed an application which shows the conduct of the victim. Learned Sessions Judge has not considered the same and wrongly kept the said application in abeyance. In fact, the entire defence of the present applicants is depend upon the report of the DNA analysis and where the applicant No.1 is inculpated or exculpated is depends upon the said analysis report. In view of that, that analysis is relevant, however, the learned Sessions Judge has not considered the same.

3. Learned APP strongly opposed the said application, however, he has fairly admitted that both have filed an application for DNA analysis. The facts of the case shows that the victim has delivered a child.

4. After hearing both sides and on perusal of the entire investigation papers, it reveals that entire issue revolves around whether the victim was subjected for the sexual assault by the present applicant No.1 on the false

promise of marriage, as well as whether the child delivered by her is out of that sexual assault on her. Admittedly, the DNA report would assist the parties to come to the conclusion as to the sexual assault. It would also be helpful to inculcate or exculpate the present applicant. Considering the prayer made by both the side, it would be appropriate on the part of the Sessions Judge to consider the application and send the samples for DNA analysis. Admittedly, the defence of the applicants is depends upon the analysis report and therefore, it is a vital evidence for the prosecution as well as for the defence. In view of that, the order passed by the learned Sessions Judge is liable to be quashed and set aside. In view of that, the application Exh.48 is **allowed**.

5. The learned Sessions Judge shall decide the application below Exh.30 by passing appropriate order on its own merits.

6. The parties to cooperate with the Sessions Court to decide the said application without seeking any adjournments unless there are exceptional circumstances.

The application is disposed of.

(URMILA JOSHI-PHALKE, J)