

**ORDER BELOW EXH.4**

This is an application filed by accused for discharging him from the charges levelled against him under Section 239 of the Code of Criminal Procedure.

2. In short the accused has contended that there absolutely no case made out against him for initiating criminal proceeding and more particularly the offence punishable under Section 354 of the Indian Penal Code. It is further contended that except the complainant and one more witness, the statements of other witnesses who were allegedly present on the spot are not recorded. It is also contended that no specific role has been mentioned in the complaint and entire charge-sheet. Even there is no evidence in the charge-sheet to show that the accused was under the influence of alcohol. Accordingly, by contending that even if the entire allegations of the prosecution are accepted as it is, there is no evidence to level the charge under Section 354 of the Indian Penal Code against the accused, he has prayed for discharging him.

3. Learned APP by filing say on the overleaf of the application contended that there is *prima facie* case against accused and therefore, he cannot be discharged.

4. Heard both sides. Perused record. Careful perusal of the record shows that in the complaint the first informant/prosecutrix has categorically stated that at the relevant time the accused by asking her to accompany him to film city, tried to come closer to her. Even it is specifically alleged that when she was narrating the incident to her mother, accused came from her backside and hugged her.

5. These allegations made by the prosecutrix *prima facie* shows that the requisite ingredients of Section 354 of the Indian Penal Code are duly satisfied by the gesture and conduct of the accused.

6. Apart from this, though the accused has tried to contend that except the prosecutrix and one other witness, no statements of other witnesses are recorded, there appears no substance in his contentions. It is essential to mention here that the provisions of Section 134 of the Indian Evidence Act, nowhere mandates any particular number of witnesses for proving the charge levelled against the accused. On the contrary this provision categorically shows that it is not the quantity of the evidence, but the quality of evidence which is required for adjudication.

7. In view of these *prima facie* circumstances and above stated legal aspect, there appears absolutely no substance in the contentions raised by the accused in this application. Consequently, the application deserves to be rejected. Hence, following order :

**ORDER**

Application stands rejected.

Date : 24/07/2026

D. P. Kasat  
Judicial Magistrate, First Class  
63<sup>rd</sup> Court, Andheri, Mumbai.