

IN THE COURT OF SESSIONS JUDGE, WASHIM.

Order Below Exh. 04
(Dated 29/10/2025)

1. By the present application, the applicant is praying for grant of bail in crime No. 200/2025 registered by Jaulka police station for alleged offence under Sections 137(2), 64(1) of BNS and Sections 3(1)(w)(i), 3(1)(w)(ii), 3(2)(5) of Scheduled Caste and Scheduled Tribes (Prevention of Atrocities), Act, 1989 (SC & ST Act).
2. The prosecution story is that applicant/accused on 11.04.2025 at about 11 pm called from his mobile number to victim's mobile and called her out of house and if she is not come then he will kill her. The complainant due to the threat came in fear. Then the accused taken forcibly took her to Ahilya nagar thereafter village Bhalwani, Tq.Parner, and on 13.04.2025 he booked a room and on that day and thereafter , he had been committed rape forcibly and had physical relations with her and threatened her that if she told the said incident to anyone then he will kill her. Due to the physical intercourse with her by accused she has been remained pregnant of two months. The accused thereafter pressurized complainant to abort the pregnancy. On 29.07.2025 the complainant behind back of the accused called her mother and told the incident occurred with her. Then the parents of the complainant and her maternal brother and her sister came there where she resided and then took her at Jaulka. Hence, complainant lodged report against the applicant/accused. Accused came to arrested. Investigation was carried out . Chargsheet came to be filed.
3. As accused is detained he preferred application for bail on various

grounds of false implicaitaion and consensual relationshsip.

4. Learned advocate for the applicant/accused submitted that the applicant and complainant were residing in front one another and there wa dispute with the family of the complainant. Therefore there is enmity in between the family of complainant and applicant. The applicant is having agricultural property and had sold his agricultural land to another person for Rs.10 to 12 lacs. The family of the complainant instigated the complainant to entangle the applicant with intent to grab money from complainant. There was love and affection between the complainant and applicant. Said fact was known to the family members of complainant. Therefore they shifted applicant at Karanja in the month of March 2025. He further submitted that on 12.04.2025 the applicant was missing from Karanja therefore the relative of applicant given the missing complaint on 15.04.2025 to Karanja police station. He further submitted that complainant and applicant together went to Ahilya nagar and both resided there from 13.04.2025 to 28.07.2025 and between that period the applicant and complainant , resided as husband and wife and they snapped various photographs and they roamed in Maharashtra State and enjoyed the life as husband and wife. Thereafter the complainant came to her house on 29.07.2025 at that time the family member of complainant demanded money to the applicant and his family member. At that time the family members of applicant refused to pay the money to the family members of complainant. Therefore complainant lodged the false report against the applicant. It is contended by the Ld. counsel for the applicant that after rejection of the earlier bail application by

order dated 16/09/2025, charge-sheet has been filed and investigation is completed. Considering the oral facts and circumstances, it is pointed out that on 11/04/2025 till 29/07/2025, the victim was staying with the applicant all through out on her own free will and it indicates consenting and consensual relationship. Hence, prayed for bail.

5. The learned APP opposed the application on the ground that the complainant belongs to Scheduled Tribes and this fact was known to the applicant. Even then he kept forceful physical relations with complainant. He further submitted that if bail granted he will tamper the prosecution witnesses. So also DNA report of complainant and applicant is still not received. Hence, prayed to reject the application.
6. Perused charge-sheet, considered submissions.
7. On perusal of the charge-sheet as well as various statements of the victim, apparently, aspect of her stay to be emerged since inception. It is pointed out that the present applicant is already married to someone else.
8. Commission if offence Section 3(w)(i) and Section 3(w)(ii) of SC & ST Act are also alleged herein. Explanation to the said proviso contemplates that there should be unequivocal agreement and willingness to participate in any specific act. The explanation further provides not offering any physical resistance to any act of a sexual nature is not by reason only of that act, is to be regarded as consenting to the sexual activity. Provided further that woman's sexual history, including with the offender shall not imply consent or mitigate the offence. Having regard to this Special legal position , the present

applicant is alleged to be married person and alleged deemed consent with the victim – a member of Scheduled Tribe. This circumstances are clearly distinguishable with the case relied upon *Mandip Gyan Singh ..vs.. State of Maharashtra* and *Dinesh Fakira Mohrule ..vs.. State of Maharashtra* wherein in both cases the record shows the existence of love relationship prior to the alleged incident and lastly the case of *Sunny @ Ravi Kumar ..vs.. State of NCT of Delhi* also pointed out similar circumstances. In the case of Sunny @ Ravi, there was assurance of marriage. All these factors which assisted the grant of bail in cited cases are absent in this case.

9. In this case, the married person enticed a young girl belonging to Scheduled Tribe category. She remained pregnant and thereafter, complaint is lodged. These features are distinguishable features in the present case . The facts of case does not entitle accused for the grant of bail. Hence, I pass the following order -

ORDER

- 1) Application at Exh. 4 stands rejected.
- 2) The accused be produced for charge on the next date.
- 3) The prosecution to file draft charge.

Washim.
Date: 29/10/2025.

(Anil Subramaniam)
Sessions Judge, Washim.