

**Order Below Exh.1 in Cri.B.Appln.No. 33/2022  
(CNR No. MHNS010001062022)**

Nitin Ashru Wani Vs. State.

**Heard:** Ld. Adv. Mr. S. R. Pargharmol for the applicant.  
Ld. A.P.P. Ms. S. S. Sangle for the State.  
I.O. present.

1. This is an application under section 438 of the Code of Criminal Procedure in Crime No. 328/2021 registered at Mumbai Naka, Police station Nashik for the offence punishable under Sections 376(2)(f) & (n) and 506(2) of the Indian Penal Code, 1860. It is the case of prosecution in brief that the complainant/victim is the cousin mother-in-law of the accused/applicant. He committed forcible sexual intercourse with her on few occasions by threatening and intimidating her.

2. Ld. Advocate for the applicant has submitted that there is gross delay in lodging FIR. The alleged incident occurred on 27/09/2021, whereas the FIR was lodged in December, 2021. It is pertinent to note that as per the FIR, the complainant had sexual intercourse with the applicant on the second and third occasion in a hotel at Nashik. Therefore, if it is the contention of the complainant that he had threatened and intimidated her and also took her nude videos (which has been added by hand later on in the oral report), then there was no reason for the complainant to accompany him to the hotel. There is no necessity of custodial interrogation. Applicant is ready to co-operate with the investigating agency.

3. Per contra, Ld. A.P.P. has opposed the application on the ground that custodial interrogation of the applicant is necessary, especially for recovering his mobile phone.

4. Applicant is ready to comply with the terms and conditions imposed by the court. Considering the allegations, there appears to be no necessity of his custodial interrogation. In view thereof, I am inclined to allow the application subject to the following terms and conditions.

**ORDER**

- 1) Application is hereby allowed.
- 2) In the event of arrest of applicant (Nitin Ashru Wani), he be released on executing P. R. and S. B. of ₹15,000/- with one local surety of like amount.
- 3) Applicant shall co-operate in the investigation and shall attend the concerned police station as and when called by the I. O. and shall handover his mobile phone to the I. O. (if required).
- 4) Applicant shall not directly or indirectly, make any inducement, threat or promises to any person acquainted with the facts of accusation, so as to dissuade him/her from disclosing such facts to the Court or to the police officer and shall not tamper with the prosecution evidence in any manner.

Nashik  
15/01/2022

Mridula Bhatia  
District Judge-2 and Additional  
Sessions Judge, Nashik.