

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

CRIMINAL APPLICATION (ABA) NO.460 OF 2015

Gajendra Sarode

..VS..

State of Mah., thr PSO, PS Murtizajpur, District Akola

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

Court's or Judge's order

Shri J.B. Gandhi, Counsel for the Applicant.
Shri A.K. Bangadkar, APP for the State.

CORAM : V.M. DESHPANDE, J.

DATE : SEPTEMBER 21, 2015.

Heard Shri J.B. Gandhi, learned counsel for the applicant and Shri A.K. Bangadkar, learned APP for the State.

By this present application, the applicant is seeking the relief of pre-arrest bail, since the applicant is apprehending his arrest in connection with Crime No.221 of 2015, registered with Police Station Murtizapur, District Akola for the offences punishable under Sections 376, 504, and 506 of the Indian Penal Code and under Section 3(1)(xi) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

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The FIR is lodged by the prosecutrix itself having 24 years of her age. She belongs to caste which comes in the category of Scheduled Castes. From the FIR it is clear that she was taking the education in Bachelor of Arts (Part-II) at Murtizapur, District Amravati. She has stated in the FIR that, when she had been to Amravati for her private work before last year, the present applicant met her at Amravati Bus Stop. The applicant told the prosecutrix that he was in love with her. Though the prosecutrix responded negatively, she sought some time from him for consideration. Thereafter, talks resumed between them.

The FIR further recites that the applicant gave promise of marriage to the prosecutrix and on that pretext the applicant established sexual relation with her. Subsequently, the applicant turned round of his promise made with the prosecutrix on the ground of different caste. On 19.8.2015, when the prosecutrix had been to the house of the present applicant, he was not found at his residence. At that time, the parents of the applicant abused in the name of the caste of the prosecutrix.

The FIR is clearly silent about specific abuses

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on the caste. The prosecutrix has made a general statement that the abuses were hurled. Further it is crystal clear that the allegations of using abusive language in the name of caste is not against the present applicant. The parent of the applicant are already released on bail by the Trial Court.

It is worth noting that it is not the case of the prosecutrix in her FIR or even from the statement recorded by the investigating officer during the course of the investigation that the applicant has established sexual relations with her only because she belongs to the scheduled castes.

Looking to the other material available in the investigating papers, learned APP submits that since there was a promise of marriage to the prosecutrix on the part of the applicant and since the applicant has failed to fulfill the same, the applicant is guilty of misconduct. The applicant is not facing the charge of cheating.

In view of the aforesaid, it appears to me that the necessity of custodial presence of the applicant is not warranted. At the most the applicant can be directed to attend the police station and join the investigation. That leads me to pass the

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following order.

ORDER

1] The criminal application is allowed.

2] In the event of arrest of the applicant, in connection with Crime No.221 of 2015, registered with Police Station Murtizapur, District Akola for the offences punishable under Sections 376, 504, and 506 of the Indian Penal Code and under Section 3(1) (xi) of The Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989, applicant - Gajendra Ramesh Sarode be released on bail on he executing Personal Bond of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one solvent surety in the like amount.

3] The applicant shall attend the Police Station Murtizapur, District Akola on 1.10.2015. On this date, the applicant shall remain with the investigating officer between 10.00 am to 6.00 pm.

4] The applicant shall attend the police station as and when he is called by the

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investigating officer. However, for that the investigating officer shall give a clear cut 48 hour written communication to the applicant.

5] Breach of any of the conditions will give rise cause to the prosecution to apply for cancellation of bail.

The application is allowed and disposed of as such.

JUDGE

!! BRW !!

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