

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

Criminal Application [ABA] No.676 of 2014

(Madhukar Balaji Dahule

vs.

State of Maharashtra, through P.S.O. Wani, Tah. Wani, District Yavatmal)

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*Office notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.*

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Court's or Judge's Orders

Mr. S.H. Sudame, Advocate for the Applicant.

Mr. S.M. Ghodeswar, A.P.P. for the Non-Applicant/State.

CORAM : PRASANNA B. VARALE, J.

DATE : JANUARY 19, 2015.

Heard the learned Counsel for the applicant.

The applicant is before this Court apprehending his arrest in Crime No.299/2014, registered at Wani Police Station, District Yavatmal for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

The learned Counsel for the applicant, by inviting my attention to the report, submits that the victim i.e. the wife of the applicant, and the applicant were leading matrimonial life for nearly 20 years. He further submits that the only allegations in the report are the vague allegations against the applicant of having illicit relations with a lady and insistence for divorce. He submits that the alleged incident is of 07/12/2014 and the report is lodged on 15/12/2014. His submission is, such belated report itself casts suspicion on the alleged incident. The learned Counsel further submits that even taking the report as it is,

though not admitting the same, it is stated in the report that the applicant picked up the quarrel with the complainant and left the house. He, therefore, submits that on the backdrop of this material, the allegations against the applicant for committing an offence under Section 306 of the Indian Penal Code is wholly unsustainable.

The learned A.P.P. opposes the application. He submits that the applicant was insisting for divorce. He further submits that the victim was admitted to the Civil Hospital, Chandrapur and her dying declaration was recorded. He then submits that as the investigation is in progress, the applicant may not be protected.

Considering the material placed on record and more particularly the report and reply filed by the State, it clearly reveals the nature of the allegations is the vague allegations and on 07/12/2014, though the applicant picked up the quarrel, he insisted the complainant to take away his sister. The applicant left the house in an angry mood. The nephew of the complainant viz. Akshay manhandled the complainant and forcefully ousted them from the house.

Thus, taking into consideration the report and the material collected by the investigating agency, in my opinion, the custodial interrogation of the applicant is not necessary. The learned Counsel for the applicant has made out a case. The

apprehension of the State can be taken care of by imposing the condition upon the applicant.

In the result, the application is allowed. The interim order passed by this Court on 30th December, 2014 is confirmed with a condition that the applicant to attend Wani Police Station, District Yavatmal on every Sunday of the month from 09:00 a.m. to 12:00 p.m. and maintain a diary of his attendance duly countersigned by the Police Station Officer, till filing of the charge-sheet.

The application is disposed of as such.

JUDGE

**sdw*