

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

CRIMINAL APPLICATION (ABA) NO. 576 OF 2015

(ASHISH JAGOJI DABHEKAR...VS..STATE OF MAH., THR. PSO, PS PRATAP NAGAR, NAGPUR)

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

Court's or Judge's orders

CORAM : Z.A.HAQ, J.

DATED : FEBRUARY 24, 2016.

CRI.APPLN.1364/2015.

Heard Shri A.B.Moon, advocate for the
 Complainant, Shri S.P. Bhandarkar, advocate for the applicant
 and Shri H.R. Dhumale, A.P.P. for the non-applicant.

The Complainant (Prosecutrix) has filed this
 application seeking permission to assist the prosecution. The
 applicant has not been able to point out that the non-
 applicant-State of Maharashtra has not placed the relevant
 material on record to oppose the application filed by the
 applicant.

I see no reason to consider the prayer of the
 complainant. The application is **rejected**.

CRI.APPLN.(ABA) NO. 576/2015.

Leave to correct the prayer clause is granted.

Heard Shri S.P. Bhandarkar, advocate for the
 applicant and Shri H.R. Dhumale, A.P.P. for the non-
 applicant.

The applicant is seeking pre-arrest bail apprehending arrest in the crime registered against him for the offences punishable under Sections 312, 313, 323, 506-B, 376 and Sections 3(1)(xii) & 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989.

That the crime is registered against the applicant on the report of the complainant that her friend Kanchan Kotpalliwar had introduced the complainant with the applicant and later on the applicant and the complainant were on talking terms and the applicant gave proposal for marriage and the complainant accepted the proposal. According to the complainant, she was introduced to the family members of the applicant and thereafter the applicant had sexual intercourse with her repeatedly. It is alleged that the applicant knew that the complainant belongs to Mahar caste and used to utter abuses relating to her caste.

Considering the nature of the allegations, I find that *prima-facie*, the offences punishable under Sections 3(1)(xii) and 3(2)(v) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 are not made out and the prosecution will have to prove the allegations.

As far as accusation regarding commission of the offences punishable under Sections 376, 312, 313, 506-B of the Indian Penal Code are concerned, considering the accusation made by the complainant regarding intimacy between the applicant and the complainant, in my view, it is not the case which requires investigation under police custody. I am satisfied that the applicant is entitled for pre-arrest bail.

Hence, the following order :

In the event of arrest in the crime registered as F.I.R. No.387 of 2015, by the non-applicant, the applicant shall be released on bail on furnishing P.R. Bond in the sum of Rs.Ten Thousand and one solvent surety in the like amount.

The application is allowed accordingly.

There are lapses on the part of the applicant and the application filed before this Court does not show the offence under which he apprehends arrest, properly. The record shows that there is negligence on the part of the applicant in filing the application.

The applicant shall deposit Rs.Five Thousand with the High Court Legal Services Sub-Committee, Nagpur and produce receipt on the record of this application till 26th February, 2016. If the amount is not deposited and the receipt is not produced till 26th February, 2016, this order shall stand recalled.

JUDGE