

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

CRIMINAL APPLICATION (BA) NO.980 OF 2016
(Roopal s/o Roopchand Maske vs. The State of Maharashtra)

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

Shri S.O. Ahmed, Advocate for applicant.
Shri A.V. Palshikar, Additional Public Prosecutor for
respondent.

CORAM : P.N. DESHMUKH, J.

DATED : DECEMBER 06, 2016

Shri Palshikar, learned Additional Public
Prosecutor has placed on record affidavit-in-reply and
copy of the same is supplied to Shri Ahmed, learned
Counsel for applicant.

Heard learned Counsel for both sides.

This application is filed by applicant for
grant of bail in Crime No. 1203/2016 registered by
Police Station, Ramnagar, Chandrapur for the offence
punishable under Section 376(1) of Indian Penal Code.

Shri Ahmed, learned Counsel for applicant,
at the outset, submits that report is lodged by
prosecutrix belatedly, i.e. after about two years from the
alleged incident and on this ground itself, application is
liable to be allowed. It is contended that prosecutrix
wanted to marry with applicant, however, since he was
not interested to marry her, false report is lodged
alleging applicant to have sexually assaulted her. It is
further contended that though investigation is in
progress, there is no purpose in keeping applicant behind

bar, who is arrested more than one month before. It is submitted that application may be allowed.

Shri Palshikar, learned Additional Public Prosecutor for respondent, has opposed the application by contending that applicant is involved in a serious crime and statements of parents of applicant are yet to be recorded.

Perusal of report reveals that it was lodged on 28/10/2016 with regard to incident alleged to have caused from March 2014 till October 2016. Prosecutrix has stated that in August 2013, for the first time she met applicant at Chandrapur where she visited while working as Accountant with a firm in Nagpur for some official purpose and during their meeting, they indulged in physical relationship in a flat, which was owned by the Company at Chandrapur where applicant was working. Prosecutrix after staying for one week in Chandrapur, returned back to Nagpur. Prosecutrix has further stated in the report that thereafter in the year 2014, applicant left his job from Chandrapur and joined a firm at Nagpur during which period he was residing as tenant of one Haridas Gedam. She has stated that she then again indulged into physical relations with applicant and was also introduced by applicant to his landlord as his would be wife and while staying at said place, mother of applicant was also occasionally staying with him and was aware about applicant and prosecutrix having decided to marry with each other. From the report, it is further found that it is only on 9/10/2016, applicant left Nagpur saying that he would go to Chandrapur to bring his

parents and thereafter did not meet prosecutrix and avoided to receive her phone calls. Prosecutrix though visited house of applicant at Chandrapur, which was found locked and it is only on 16/10/2016 prosecutrix along with her mother again went to Chandrapur to meet applicant. He was found present in the house and refused to marry her and thus, report came to be lodged.

From the report as aforesaid, it is seen that in August 2013, prosecutrix was in the company of applicant for a period of one week at Chandrapur during which period they indulged into sexual relationship and thereafter in the year 2014 when applicant was transferred to Nagpur and was residing in a rented house, they again indulged in such relationship and in October 2016 as applicant for the reason best known to him, expressed his inability to marry prosecutrix, report came to be lodged on 28/10/2016.

Having considered facts as aforesaid and as prosecutrix is admittedly 31 years of age and by no stretch of imagination, it can be said that applicant without consent of prosecutrix had indulged into sexual relationship with her, there is no purpose in keeping applicant behind bar. In the circumstances, application is liable to be allowed as per order below :

Applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.20,000/- with one surety in like amount. Applicant shall mark his presence with Police Station, Ramnagar, Chandrapur from 10/12/2016 for a period of one week between 10 a.m. and 12 noon and thereafter as and when called till filing

of charge-sheet. Applicant shall produce proof of his residential address and shall up-date the same in the event of any change therein.

The criminal application is accordingly allowed.

JUDGE

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