

FARAD CONTINUATION SHEET
IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR.

CRIMINAL APPPLICATION (BA) NO. 7 OF 2017.

Sudhakar Chindkaji Ingole

..VS..

State of Mah.thr.P.S.O.,P.S. Pusad (Rural), Distt.Yavatmal.

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

Mr.R.M.Daga Adv. with Ms.F.N.Haidari, Adv. for the
applicant.

Mr.Vishal Gangane, APP for the State.

CORAM : P.N. DESHMUKH, J.
DATE : 13th JANUARY, 2017.

1. Heard learned counsel for the applicant and learned
Additional Public Prosecutor for the State.

2. This is an application for grant of bail by accused
involved in Crime No.251 of 2016 registered at Police Station
Pusad (Rural), Distt.Yavatmal, under Sections 376, 317, 420,
506 of the Indian Penal Code.

3. Learned counsel for the applicant submitted that,
admittedly prosecutrix is major and from her report and
documents filed with the charge-sheet, there is nothing to
establish that applicant at any point of time committed sexual

intercourse with her against her wish. Applicant has not disputed facts of prosecutrix giving birth to one male child who, according to applicant, has been adopted by one Hajare family of Nashik and thus has contended that since charge-sheet is already filed, there is no propriety in keeping applicant behind the bar. It is also pointed out that though initially offence was registered under Sections 376, 317, 420, 506 of the Indian Penal Code, charge-sheet is filed under Sections 376, 506 of the Indian Penal Code only. It is also submitted that from the report itself it is seen that applicant and prosecutrix had intimacy between them since January, 2015 to July, 2016 inspite of prosecutrix marrying with one Ganesh Bhagat on 20th of May, 2016. It is therefore, contended that this fact also established that it is prosecutrix who had willingly kept physical relations with the applicant.

4. Prosecution has opposed the application as per its reply on record, however, has not disputed fact of child having been adopted by Hajare family of Nashik.

5. Considering the peculiar facts involved in application as aforesaid, from the report it is revealed that prosecutrix, aged 21 years, who was residing in the neighbourhood of applicant was visiting his house to cook his food during which period, they developed physical relations and said relations were continued for a period of one and half years and prosecutrix conceived pregnancy from the applicant and with the assistance of applicant, she delivered a male child in Civil Hospital at Nashik in May, 2015.

6. Though it is further stated that applicant on one day took the child with him, however, did not return back with it, from the statement of Sunita Hajare it is found that on 25th May, 2015 her sister Suman, who is resident of Nashik, called Sunita and her husband to Nashik and on their reaching to her home introduced to a child saying that they should adopt him who is delivered by complainant Bhagyashali. As such, statement of Sunita Hajare established presence of applicant as well as Bhagyashali where such talk took place between Sunita, her husband and Suman. At that time, complainant has specifically informed that she had delivered said child out of her illicit relations and was willing to give it in adoption to Hazare husband and wife. It, therefore, appears that since 2nd June, 2016, child is adopted by Hazare family, however, without entering into any documentations. In view of statement as aforesaid, it is thus noted that no charge-sheet is filed against applicant for the offence punishable under Sections 317 and 420 of the Indian Penal Code. The charge-sheet is thus under Sections 376, 506 of the Indian Penal Code. However, considering the contents of report, age of prosecutrix as aforesaid and facts involved in the present crime, applicant deserves to be released on bail as there is no criminal antecedent against him who is aged 50 years. In the circumstances, following order is passed.

(i) Applicant Sudhakar Chindkaji Ingole shall be released on bail in Crime No.251 of 2016 registered at Police

Station Pusad (Rural), Distt.Yavatmal on his executing P.R. Bond in the sum of Rs.25000/- with one surety in the like amount.

(ii) While on bail, applicant shall mark his presence with Police Station Pusad (R), Distt.Yavatmal, once in three months on the first day of each such month, pending trial.

(iii) Applicant pending trial shall not enter within limits of village Brahmangaon, Tq.Pusad, Distt.Yavastmal.

JUDGE

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