

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

CRIMINAL APPLICATION (ABA) NO.840/2017

Faizul s/o Hasan Ahmed ..vs.. State of Maharashtra thr. PSO P.S.
Hudkeshwar, Dist. Nagpur.

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

Court's or Judge's orders.

Ms S. S. Deshpande, Advocate for applicant.
Ms K. Deshpande, A.P.P. for non applicant-State

CORAM : V.M. DESHPANDE, J.

DATED : DECEMBER 11, 2017

Heard Ms S. S. Deshpande, learned counsel for the applicant and Mrs. K. Deshpande, learned A.P.P. for non applicant-State.

This is an application for anticipatory bail in connection with Crime No.671/2017 registered with Police Station, Hudkeshwar, Dist. Nagpur for an offence punishable under Section 312, 376 (2) (H), 506, 34 of the Indian Penal Code read with Section 4 and 6 of the Protection of Children from Sexual Offences Act. The FIR shows that at the time of filing of the report, age of the prosecutrix was 21 years, still the investigating officer has invoked the provisions of the POCSO Act. Hence, issue notice to the investigating officer Shubhangi Wasudeo Mohare, WPSI, Hudkeshwar to remain present before this Court on 18.12.2017 and explain under what situation, the investigating officer has invoked the said provision.

Insofar as the merit of the present application is concerned, the first informant in her FIR itself has stated that

there were physical relations between the applicant and her from 2012. Not only that, thereafter she has married with the applicant. The first informant has also filed an affidavit before this Court and has stated that their marriage took place in the year 2012 and due to the matrimonial discord, the FIR was lodged.

In view of the fact that the sexual relation was established in the year 2012 and from the said date till filing of the FIR, no dispute was raised about the forcible sexual relations. I am of the view that the applicant has made out a prima facie case for granting discretionary relief.

In view of above, Criminal Application No.840/2017 is allowed. In the event of arrest in connection with Crime No.671/2017 registered with Police Station, Hudkeshwar, Dist. Nagpur for an offence punishable under Section 312, 376 (2) (H), 506 and 34 of the IPC Applicant-Faizul s/o Hasan Ahmed be released on bail on he executing P.R. Bond in the sum of Rs.25,000/- with two solvent sureties in the like amount.

The application stands disposed of.

JUDGE