

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

CRIMINAL APPLICATION (ABA) NO.886/2017

Dhiraj s/o Digamber Pate

..vs..

State of Mah., thr. PSO Wani Police Station, Taluka Wani, District Yavatmal

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

Court's or Judge's Order

Shri Anil Mardikar, Senior Counsel with Shri S.G. Joshi, Adv. for the applicant.

Shri K.L. Dharmadhikari, Addl.P.P. for the State.

CORAM : V.M. DESHPANDE, J.

DATED : DECEMBER 15, 2017.

1. Heard learned senior counsel Shri Anil Mardikar for the applicant and learned Additional Public Prosecutor Shri K.L. Dharmadhikari for the State.

2. The applicant is apprehending his arrest in connection with Crime No.1232 of 2017 registered with Wani Police Station, Taluka Wani, District Yavatmal for the offences punishable under Sections 376(2)(n), 354(C), 387, and 506 read with Section 34 of the Indian Penal Code.

3. The State has filed its reply.

4. This Court on 11.12.2017 while issuing Notice to the State, looking to the nature of accusations made against the present applicant, has protected the applicant by interim bail with directions that the the applicant shall attend Wani Police

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Station on 12.12.2017 and on 13.12.2017 and shall be with the investigating officer from 11:00 a.m. to 5:00 p.m.. Accordingly, the applicant has attended the police station and was with the investigating officer, is the statement made during the course of hearing by learned senior counsel Shri Anil Mardikar, which is not disputed by learned Additional Public Prosecutor Shri K.L. Dharmadhikari for the State either orally or through the reply filed on behalf of the State.

5. Perusal of the reply would show that there are no accusations against the present applicant for sexual intercourse. All the reply is devoted insofar as role played by Bhaskar.

6. In the reply, it is stated that Videographs, which were taken by accused No.1, are also sent to the Forensic Science Laboratory. What is stated in the reply is that during the course of interrogation of Bhaskar, he has stated that the present applicant has provided a room for Bhaskar for committing sexual intercourse. There is no other independent evidence to show that he has provided any room as stated by Bhaskar. The statement made by co-accused is not admissible in evidence at the most it can give a clue or lead to the investigating officer and it is expected from the investigating officer to act accordingly.

7. In the present case, even after getting the said clue

from the co-accused, there is no independent evidence collected against the present applicant.

8. In that view of the matter, the present applicant has made out a case for grant of anticipatory bail. Consequently, this Court passes the following order:

ORDER

(i) The criminal application is allowed.

(ii) Order dated 11.12.2017 passed by this Court stands confirmed.

(iii) The criminal application is disposed of accordingly.

JUDGE

!! BRW !!

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