

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

Criminal Application [BA] No.178 of 2018

Mangesh Mahadev Chauhan

vs.

State of Maharashtra, through P.S.O. Akot City, Akola

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

Court's or Judge's Orders

Shri A.B. Mirza, Advocate for the Applicant.

Shri N.B. Jawade, A.P.P. for the Non-Applicant/State.

CORAM : S.B. SHUKRE, J.
DATE : 9th MARCH, 2018.

Heard.

Perused the charge-sheet and reply of the prosecution. *Prima facie*, it is seen that the victim was a minor girl, aged about 15 years, and that she engaged herself in physical relations with the applicant because of the sweet talk this applicant made with her. Admittedly, the applicant is the husband of elder sister of the victim of crime. This position *prima facie* allowed the applicant to exercise influence and dominance over the victim of crime, a minor girl, which ultimately made the victim of crime agree to whatsoever was done to her by the applicant.

These circumstances reasonably show that even if there was a consent given by the prosecutrix, it was no consent in the eyes of law. They would also show that this case cannot be equated with a case wherein the accused and the victim both are young persons, are in love with each other and for some reasons, the love affair is not blossomed into a full-fledged marriage. Rather, this is a case wherein one can say that the possibility of performance of marriage between

the applicant and the victim of crime was not at all there, as the applicant's first marriage was subsisting. So, respectfully disagreeing with the learned Counsel for the applicant, I find that there is a strong *prima facie* evidence available in this case indicating *prima facie* constitution of the offences alleged against the applicant, which are serious in nature.

The second factor, in my view, which goes against this applicant is, the possibility arising from position of dominance held by the applicant. The victim of crime is the younger sister of the wife of the applicant and it is quite possible that if the applicant is released on bail, he may do everything to exercise influence over the younger sister of his wife by using his wife, and he can also possibly capitalize on his such relationship, through his mother-in-law, to tamper with prosecution witnesses. All in all, I am of the view that there is a reasonable possibility of the applicant tampering with the prosecution witnesses, if he is released on bail.

In view of the above, I am not inclined to grant this application. The application stands rejected.

JUDGE

*sdw