

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

**CRIMINAL APPLICATION (ABA) NO.923/2017**

**Bhumeshwar s/o Kuwarlal Ramteke**

**..VS..**

**State of Mah., thr. its PSO PS Goregaon, Tal. and District Gondia**

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

Court's or Judge's Order

.....  
Shri N.R. Tekade, Counsel for the applicant.

Shri M.K. Pathan, Addl.P.P. for the State.

**CORAM : V.M. DESHPANDE, J.**

**DATED : JANUARY 16, 2018.**

1. Heard learned counsel Shri N.R. Tekade for the applicant and learned Additional Public Prosecutor Shri M.K. Pathan for the State so also perused the reply and the investigation papers.

2. Since the applicant is apprehending his arrest in connection with Crime No.296 of 217 registered with Police Station Goregaon, Tal. and District Gondia for the offences punishable under Sections 452, 376, 323, 504, and 506 of the Indian Penal Code, the applicant is before this Court by moving the present application under Section 438 of the Code of Criminal Procedure.

3. The first information report is lodged by the

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victim herself. The first information report is lodged on 11.12.2017. The gist of the first information report is that the victim is working as “*Anganwadi Sevika*” at Ghoti since 1997. The applicant is also resident of Ghoti. The husband of the victim resides at Beltola (Nilay) and there used to be intermittent visits either by her husband or by the victim.

4. According to the first information report, the applicant has taken advantage of the situation that the victim is residing all alone at Ghoti and has established physical relations with her against her will by visiting to her house. It is further stated in the first information report that the applicant used to extend threats to the victim.

5. The first information report itself shows that from July 2017 the present applicant is committing atrocities on the person of the victim.

6. In the first information report two specific incidents are given by the victim herself. The first incident is dated 27.11.2017 and another is dated 8.12.2017. It is also stated in the first information report that on 9.12.2017 a phone call was received by the victim and demanded sexual favour from her and when it was informed to the applicant about presence of the husband of the victim, the applicant came to the house of the victim and tried to push the door.

7. The victim is not a minor girl. She is a married

woman. Not only that, she is working as a “*Anganwadi Sevika*”. Though she was exploited for about 4 to 5 months, as per the general accusation in the first part of the first information report, at no point of time the said fact was reported by the victim. The two incidents are dated 27.11.2017 and 8.12.2017.

8. Insofar as incident dated 27.11.2017 is concerned, as per the version of the victim, initially the applicant demanded sexual favour and upon the said being denied by the victim, she was brutally assaulted and, thereafter, the applicant fulfilled his lust.

9. In the background of this type of accusation, normally the said fact ought to have been reported to the police by the victim, who is working as a “*Anganwadi Sevika*”. Keeping mum for about 15 days, does not rule out the embellishment at the hands of the victim.

10. Insofar as incident dated 9.12.2017 is concerned, as per the first information report and even from the statement of the husband of the victim that he was present inside the house and when as per the accusation made against the applicant in the prosecution case on the said day in the night the applicant tried to open the door and extended threats to the family of the victim, still, for the reasons best known to the husband of the victim, the said fact was not reported either by the victim or by her husband. Normally, when such a serious incident occurs in

the presence of the husband of the victim, her husband would not have missed to rush to the police station to report the matter.

11. No doubt true, the proper stage for explaining the delay is the Trial. However, at the same time, if the facts speak for itself, the Court cannot turn blind eyes to the said aspect.

12. This Court has, on 22.12.2017, granted *ad interim* anticipatory bail in favour of the applicant with a direction that the applicant shall attend the police station for good 3 days and shall be with the investigating officer from 11:00 a.m. and 5:00 p.m.

13. Learned Additional Public Prosecutor Shri M.K. Pathan for the State has fairly stated and accepted submission of learned counsel Shri N.R. Tekade for the applicant that the applicant has attended the police station. Not only that, learned Additional Public Prosecutor submitted that when the applicant was with the investigating officer as a part of the investigation and interrogation, the statement of the applicant was recorded and he was sent for his medical examination and the said is also done.

14. Looking to the nature of accusations made and the facts at least *prima facie*, there is no explanation for reporting the matter at very belated stage and looking to the fact that the investigation is almost over, in my view, custodial presence of

**the applicant will serve no purpose. That leads me to pass the following order:**

**ORDER**

**(i) The criminal application is allowed.**

**(ii) Applicant Bhumeshwar s/o Kuwarlal Ramteke, in the event of his arrest in connection with Crime No.296 of 217 registered with Police Station Goregaon, Tal. and District Gondia for the offences punishable under Sections 452, 376, 323, 504, and 506 of the Indian Penal Code, the applicant be released on bail on he executing a P.R. Bond in the sum of Rs.25,000/- with two solvent sureties of the like amount.**

**(iii) The applicant shall not extend any threat either to the victim or any of the prosecution witnesses.**

**(iv) Needless to state that the observations made in this order are purely for deciding the present application for grant of bail only and learned Judge of the Court below, who shall be trying the case, shall not get influenced by the observations**

**made in this order.**

**(v) With this, the criminal application is allowed  
and disposed of.**

**JUDGE**

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