

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

Criminal Application (ABA) No.276 of 2019
(Shrikant Anil Ghanbahadur .vs. State of Maharashtra through PSO PS
Khadan, Akola, Dist. Akola)

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

Court's or Judge's orders.

Mr. H.M. Mohta, Advocate for Applicant.
Mr. M.J. Khan, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : June 19, 2019.

The applicant herein is working in Army and presently serving in the State of Jammu and Kashmir. On 6.4.2019, an FIR came to be registered against him in which it was alleged that the applicant had sexual intercourse on two occasions with the complainant in November, 2018 and December, 2018, on the promise that the applicant would marry her. It is contended that the applicant had given a false promise of marriage to the complainant only with an intention of establishing physical relations with her. On this basis, offence under Section 376(N) of the IPC has been registered against the applicant. It is pointed out that thereafter Section 376 (2) of the IPC is also added against the applicant.

2. On 8.5.2019 this Court issued notice in the present application after taking note of the fact that the complainant is aged about 21 years and that the alleged incidents were said to have taken place in November, 2018 and December, 2018, while the FIR was registered

on 6.4.2019. This Court granted ad-interim protection to the applicant in the following manner:-

"In the event of arrest in connection with Crime No.161 of 2019, registered with the non-applicant, the applicant be released on provisional bail on executing PR bond of Rs.25,000/- and furnishing one or two solvent sureties in the like amount."

3. The aforesaid material shows that there is indeed some delay in registration of the FIR. It is also on record that the applicant is serving in the Army and presently he is posted in the State of Jammu and Kashmir. In the reply filed on behalf of the non-applicant/State, it is submitted that custody of the applicant is required for conducting his medical examination.

4. In these circumstances, this Court is of the opinion that the present application deserved to be allowed, only by addition of one more condition that the applicant shall make himself available to the Investigation Officer on specific dates after obtaining leave from his Department for the said purpose, so that medical examination of the applicant can be undertaken and he can then rejoin his service.

5. In view of the above, the present application is allowed on the conditions that were imposed on the applicant when ad-interim protection was granted by this Court by order dated 8.5.2019. The applicant is

further directed to make himself available to the Investigation Officer on 6th and 7th July, 2019, so that the medical examination of the applicant can be undertaken and the Investigation Officer would be able to record his statement in the present case. It is made clear that the applicant shall be permitted to rejoin his duties, provided he makes himself available before the Investigation Officer on the aforesaid dates.

6. The application is allowed in the aforesaid terms.

JUDGE

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