

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

Criminal Application (ABA) No. 333 of 2019

Ankush Kale

Vs.

State of Mah. Through P.S. Karanja City Dist. Washim

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

Court's or Judge's orders

Mr. R.D. Wakode, Advocate for applicant.
Mr. A.D.Sonak, APP for non-applicant.

CORAM : MANISH PITALE, J.

DATED : JULY 29, 2019

The applicant herein has approached this Court apprehending arrest in connection with FIR dated 27/04/2019, registered against him for offences under Sections 376 and 420 of the Indian Penal Code.

2. In the order dated 06/06/2019, passed by this Court, whereby notice was issued and ad-interim protection was granted to the applicant, the following observations were made :

“5. It is pointed out that an engagement ceremony for marriage was performed between the applicant and the complainant. But thereafter, the applicant and his family came to know that the complainant was already married and that she had in fact initiated proceedings under the provisions of the Protection of Women from Domestic Violence Act, 2005 against her husband. It was also found that on an earlier

occasion the complainant was to marry another person and upon the said person not marrying her, she had threatened him due to which he had committed suicide. A complaint to that effect had been filed before the Authorities by the brother of the said deceased.

6. It is the case of the applicant that in this backdrop when the applicant broke the engagement with the complainant, she started threatening the applicant and his family of being involved in false criminal cases. In this backdrop, on 13.03.2019 the mother of the applicant approached the Police on the basis of which a non-cognizable offence information report dated 13.04.2019 was registered in Police Station Rajapeth, district Amravati. It is thereafter that on 27.04.2019 the present FIR was registered against the applicant at the behest of the applicant for the alleged incident. On this basis, the learned counsel for the applicant submitted that it was nothing but a case of false implication and that the applicant deserved grant of anticipatory bail.

7. In view of the above, a clear case for grant of ad-interim protection is made out.

8. In the event, the applicant is arrested in Crime No. 201 of 2019 registered in Police Station Karanja district Washim, he shall be released on bail on furnishing P.R. bond of Rs.15,000/- (Rs. Fifteen Thousand) and a surety in the like amount. The applicant is directed to cooperate with the investigation and to make himself available before the Investigating Officer as and when required.”

3. The learned counsel for the applicant has submitted that the applicant has cooperated with the investigation and abided by the conditions imposed by this Court while granting ad-interim protection. The learned counsel for the applicant has invited attention

of this Court to paragraph No. 4 of the reply affidavit filed on behalf of the non-applicant State, which reads as follows :

“The non-applicant further submits that on registration of First Information Report the Investigating Agency initiated the investigation and drawn the spot panchanama and had also conducted the medical examination of the prosecutrix as well as the applicant. The medical papers of the applicant as well as the prosecutrix are part and parcel of the case papers. The Investigating Agency has recorded the statements of the witnesses. However the Investigating Agency is calling the prosecutrix for further investigation however, inspite of repeated messages she is avoiding to cooperate in the investigation. On the contrary the applicant after getting the ad-interim bail had attended the Investigating Agency and has cooperated in the investigation. Therefore in such circumstances appropriate order may be passed.”

4. In view of the above quoted para of reply affidavit filed on behalf of the non-applicant State, it becomes evident that the present application deserves to be allowed. Accordingly, the application is allowed. The applicant is granted anticipatory bail by confirming ad-interim protection granted by order dated 06/06/2019. The applicant shall continue to cooperate with the investigation.

JUDGE