

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

**Criminal Application (ABA) No.341 of 2019**  
**( Rajesh Malayya Durgum .vs. The State of Maharashtra through PSO**  
**Ramnagar Police Station Chandrapur. )**

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

Court's or Judge's orders.

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Mr. Sanket Bhandarkar, Advocate for Applicant.

Mr. N.R. Rode, APP for Non/applicant/State.

**CORAM : Manish Pitale, J.**

**DATED : July 16, 2019.**

The applicant herein has approached this Court seeking anticipatory bail in connection with FIR dated 25.05.2019 registered against him for alleged offences under Sections 376(1) and 417 of the Indian Penal Code. In the order dated 07.06.2019, this Court had noted in detail the nature of allegations made by the complainant, leading to registration of FIR. The said order reads as follows:-

*"Heard learned counsel for the applicant.*

*2. Issue notice, returnable on 28.06.2019.*

*3. Mr. N.R. Rode, learned APP, waives notice on behalf of the non-applicant/State.*

*4. An FIR dated 25.05.2019 has been registered against the applicant for the offences under Sections 376 (1) and 417 of the Indian Penal Code. The case of the complainant is that she was having relationship with the applicant and that he had in recent past started*

*ignoring her and upon inquiry she had found that the marriage of the applicant was fixed with another girl. On this basis the aforesaid FIR has been registered. It is pointed out by the learned counsel for the applicant that in the report leading to the registration of the FIR itself the complainant stated that she had been in relationship with the applicant for as many as eight years and that there were no specific facts stated in the report which could lead to registration of FIR for the said offence. It is also pointed out that the period of occurrence of the offence has been mentioned in FIR as 10.10.2010 to 16.02.2019 while the FIR has been registered after considerable delay of about 96 days on 25.05.2019. Apart from this, it is specifically stated in the application on behalf of the applicant that the complainant has suppressed the fact that she was a married woman and that her husband was alive till the year 2015 and further that she has two sons from the said marriage.*

5. *In view of the above a case for grant of ad-interim protection is made out.*

6. *Hence, in the event the applicant is arrested in Crime No. 684 of 2019 registered in Police Station Ramnagar, district Chandrapur, he shall be released on bail on furnishing P.R. Bond of Rs.15,000/- (Rs. Fifteen Thousand) with a surety of like amount. The applicant is directed to cooperate with the investigation and to make himself available for investigation as and when required by the Investigating Officer and he is directed not to tamper with the evidence and to influence the witnesses."*

2. In response to the present application, reply has been filed on behalf of the non-applicant/State wherein it is only stated that the applicant has not cooperated with the investigation and that since the applicant is involved in heinous crime, the custody of the applicant is necessary.

3. The facts that have have been noted by this Court in the above quoted order dated 07.06.2019 would show that the complainant herself conceded to the fact that she was in relationship with the applicant for about eight years and that her husband was alive till the year 2015. These peculiar facts and the nature of allegations made against the applicant go to show that there does not appear to be any reason for custodial interrogation of the applicant.

4. In view of the above, the present application is allowed and the ad-interim protection granted to the applicant by order dated 07.06.2019 stands confirmed. Needless to say the applicant shall continue to cooperate with the investigation and make himself available before the Investigating Officer as and when required. The applicant shall not tamper with the evidence or influence the witnesses.

**JUDGE**