

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

Criminal Application (ABA) No.374 of 2019
(Namdeo Vithoba Lahase .vs. State of Maharashtra through PSO PS
Dhamangaon Badhe, Dist. Buldhana)

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

Mr. N.B. Kalwaghe, Advocate for Applicant
 Mr. M.J. Khan, APP for Non-applicant/State.

CORAM : Manish Pitale, J.
DATED : July 16, 2019.

The applicant herein has approached this Court apprehending arrest in connection with FIR dated 27.05.2019. There are three accused persons herein, the other two being the sons of the applicant. The nature of allegations made in the FIR show that according to the complainant, the accused no.1 had committed the act of forcible sexual intercourse with her leading to the alleged offence of rape while the specific allegation against the applicant was that he had molested the victim when she approached him for complaining against the actions of his son i.e. accused no.1.

2. While granting ad-interim protection by order dated 18.06.2019, this Court noted the nature of allegations made against the applicant, as also the fact that the applicant is 81 years old suffering from various ailments. This Court granted ad-interim protection to the applicant in the following manner:-

"Hence, in the event the applicant is arrested in Crime No.118 of 2019, registered in Police Station Dhamangaon Badhe, Tahsil Motala, District Buldhana, he shall be released on bail on furnishing PR Bond of Rs.50,000/- and surety of like amount. The applicant shall cooperate with the investigation and make himself available with the Investigating Officer as and when required. The applicant shall not tamper with the evidence or influence the witnesses."

3. In response to the present application, reply has been filed on behalf of the non-applicant/State and while opposing grant of relief, it is stressed by the non-applicant State that the allegations against the applicant in the present case are serious and that the victim has alleged that the applicant did molest her. Rest of the reply pertains to the nature of allegations made against accused no.1 and the fact that medical examination shows that the hymen of the victim was found to be torn. The material on record indicates that the complainant appears to be a married woman and that in any case the medical examination is more relevant for the specific allegation made against the accused no.1.

4. Considering the fact that the applicant is 81 years old person and the nature of allegations made in the FIR do not show him to be responsible for the main allegation of rape, the present application deserves to be allowed.

5. Accordingly, the application is allowed and the ad-interim protection granted to the applicant by order dated 18.06.2019 stands confirmed. The applicant shall continue to cooperate with the investigation.

JUDGE

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