

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

CRIMINAL APPLICATION (ABA) NO. 446 OF 2019

(Yogesh S/o Sukhdeorao Deoulkar vs. State of Maharashtra Through PSO, P.S.Khaparkheda,
Tah.Saoner, Dist.Nagpur)

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

Court's or Judge's orders

Ms. P. N. Phadke Advocate for the applicant.
Shri. A. D. Sonak, APP for non-applicant State

CORAM : Manish Pitale J
DATED : August 2, 2019

The applicant herein has approached this Court apprehending arrest in connection with First Information Report (FIR) dated 26.06.2019 filed against him for offences under Sections 376(2)(n) and 506 of the Indian Penal Code (IPC) as well as Sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012.

(2) While issuing notice and granting ad-interim protection by order dated 09.07.2019, this Court had observed as follows :-

“4. The applicant herein has approached this Court apprehending arrest in connection with FIR dated 26/06/2019 registered against him for the offences punishable under sections 376(2)(n) and 506 of the Indian Penal Code as also sections 4 and 8 of the Protection of Children from Sexual Offences Act, 2012.

5. The complainant in the present case has alleged that the applicant had sexual intercourse with her by giving promise of marriage and that she has become pregnant because of the said physical relationship. On the

basis of such oral report submitted before the Police, the aforesaid FIR has been registered.

6. The learned counsel appearing for the applicant has pointed out that in the report itself the complainant has admitted to the fact that she and the applicant were in love with each other and that the families of both the parties were aware about this relationship. A perusal of the report indeed shows that even according to the complainant, there was love between the two leading to physical relationship and consequently she had become pregnant. The learned counsel for the applicant has also pointed out that the applicant is 19 years old student of ITI and that he has to appear for examination in this month. Considering the nature of report leading to registration of the FIR and the aforesaid facts pointed out on behalf of the applicant, a case for grant of ad interim protection is made out.

7. Hence, in the event the applicant is arrested in Crime No.432 of 2019, registered at Police Station Khaparkheda, District Nagpur, he shall be released on bail on furnishing PR bond of Rs.25,000/- and surety in the like amount. The applicant shall attend Police Station Khaparkheda, District Nagpur once a week i.e. Sunday between 10.00 am and 5.00 pm during the pendency of the present application. The applicant shall cooperate with the investigation. The applicant shall not tamper with the evidence or influence the witnesses. ”

(3) The learned APP has handed over reply which is taken on record, wherein it is stated that the investigation is still in progress and that there is a possibility of the applicant pressurizing the complainant who is presently residing with an NGO. It is further submitted in that reply that the custody of the applicant would be required for taking blood sample for DNA test, since the complainant in present case is pregnant and would be delivering child.

(4) In view of the facts noted in the above quoted portion of order dated 09.07.2019, this Court is of the opinion that the present application deserves to be allowed. Accordingly, the application is allowed and the applicant is granted anticipatory bail by confirming the ad-interim protection granted by order dated 09.07.2019. The applicant shall continue to co-operate with the investigation and he shall give his blood sample to the investigating agency for DNA test, if required. The applicant shall not tamper with the evidence or influence the witnesses. He shall not contact the complainant in any manner.

(5) The application is allowed in above terms.

(6) *Hamdast* granted.

JUDGE

Halwai