

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

CRIMINAL APPLICATION (ABA) NO. 685 OF 2019

Sau. Nilima w/o Anilrao Wahane .Vs. State of Maharashtra,through P.S.O,
P.S. Freszarpura, Dist. Amravati.

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

Court's or Judge's orders.

Mr. U.P. Dable, Advocate for applicant.

Mr. N.R. Rode, A.P.P. for non applicant- State.

CORAM : V. M. DESHPANDE, J.

DATED : NOVEMBER 19, 2019

Heard Mr. Dable, learned counsel for the applicant and Mr. Rode, learned Additional Public Prosecutor for non applicant-State. Also perused the reply filed on behalf of the prosecution to oppose the present application for pre-arrest bail.

The applicant is apprehending her arrest in connection with Crime No.975/2019 registered with Police Station, Freszarpura, Tah. and Dist. Amravati for an offence punishable under Sections 376 (2) (n), 313 and 506 of the Indian Penal Code.

The first information report is lodged by victim herself. As per the report, she is 23 years old. The report would disclose that victim was having love relations with Prashik, the son of the present applicant. Due to their said relations, she used to visit applicant's house. In April-2018 applicant was staying at Kiran Nagar along with her son. As

per report, there on the say of the co-accused Prashik, the victim started residing with the applicant and her son, there he proposed for the marriage. As per report, subsequently both started residing at Uttamnagar. There also the victim used to reside with them. As per report, there Prashik established sexual relations on the pretext that they are going to marry. As per report, on 25.07.2019, Prashik took victim at Chikhaldara and they stayed at hotel Vedanta and also established sexual relations there. The report further states that, in the month of August she missed her monthly periods and therefore her pregnancy test was conducted which was found to be positive. As per report, thereafter on the say of present applicant, she terminated her pregnancy by taking medicine. As per report, on 21.08.2019, both the accused refused to perform marriage with the victim therefore she lodged the report.

Mr. Rode, learned Additional Public Prosecutor submits that co-accused Prashik who has established sexual relations with the victim is already released on anticipatory bail by the learned Additional Sessions Judge, Amravati on 12.11.2019.

According to the learned Additional Public Prosecutor for the State, the custodial presence of the present applicant is necessary for the interrogation to know which tablet was given to the victim for termination of her pregnancy.

The recitals in the report clearly show that no pressure was exaggerated by the applicant upon the victim

for taking the pill for terminating her pregnancy. The recitals in the first information report in that behalf are as under:

“..... रिझल्ट पॉझिटिव्ह आल्याने आरोपी क्र. २ हिने फिर्यादीस समजावुन गर्भपाताचे मेडीकलची गोळी दिली.....”

With the aforesaid, it is clear that with full knowledge, she took the pill.

In that view of the matter, the custodial presence of the applicant is not at all necessary especially when she is already protected by this Court on 09.10.2019. In the said order this Court has directed her to attend Police Station, Frezarpura, Amravati as and when directed by the investigating officer. The learned Additional Public Prosecutor submits that accordingly the applicant has attended the police station as and when called by the investigating officer.

In that view of the matter, in my view, the custodial presence of the applicant is not at all necessary. Consequently, I pass following order:

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.975/2019 registered with Police Station, Frezarpura, Tah. and Dist. Amravati for an offence punishable under Sections 376 (2) (n), 313 and 506 of the Indian Penal Code, applicant – Sau. Nilima w/o Anilrao Wahane, be released on bail on she executing P.R. Bond in the sum of Rs.10,000/- with one solvent surety in the like amount.

(iii) The observations made in this order are *prima facie* in nature and they are made only for deciding present application. The learned Judge of the Court below shall not get himself influenced by the observations made in this order.

The application is disposed of.

JUDGE

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