

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

CRIMINAL APPLICATION (ABA) NO. 721 OF 2019

Mangal s/o Ashok Natwal .Vs. State of Maharashtra, PSO, P.S. Chikhali,
Tah. Chikhali, Dist. Buldhana.

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

Mr. A.S. Dhore, Advocate for applicant.

Mr. J.Y. Ghurde, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : NOVEMBER 15, 2019

Heard Mr. Dhore, learned counsel for the applicant and Mr. Ghurde, learned Additional Public Prosecutor for the non applicant-State. Also perused the reply filed on behalf of the prosecution.

The applicant is apprehending his arrest in connection with Crime No.620/2019 registered with Police Station, Chikhali, Tah. Chikhali, Dist. Buldhana for an offence punishable under Sections 376(2)(n), 376, 323, 504 and 506 of the Indian Penal Code.

The first information report is lodged by the victim herself who is a married woman aged about 28 years. The reply filed on behalf of the prosecution would show that marriage of the victim was solemnized with one Vikas in the year 2002 and from her wedlock, she is having one son and one daughter. As per prosecution case, the victim and her husband are not having good relations with each other. Therefore victim started residing separately and proceedings

before the competent Court for dissolution of the marriage is also going on.

According to the prosecution case present applicant is cousin brother-in-law of the sister of the victim. The victim was required to have some operation in June-2018 and therefore for taking proper rest she had been to her sister's place at Chikhali. As per reply, there the applicant used to frequently visit and they used to exchange massages between them. As per the reply, on 22.10.2018, applicant called the victim and therefore, she along with Tashu, daughter of victim's sister went near a lane behind the house of the applicant where the applicant came in white car and asked the victim to accompany with him. At that time, as per prosecution case, the applicant asked said Tashu to leave the place. Further, according to the prosecution case, thereafter the car was taken to a secluded place and thereafter the applicant asked his other persons who were with him to leave the place and after they leaving the place, he committed sexual intercourse against her wish. After perusing the statement of Tashu which is part and parcel of the investigation papers, does not show that any force or any enticement was given by the present applicant, when she was asked to seat in the car.

This Court granted interim protection on 18.10.2019 in favour of the applicant on a condition that the applicant shall attend police station on specified dates in the order. The reply of the prosecution would show that accordingly the applicant did attend the police station and

the investigating officer has also taken steps for his medical examination.

Looking to the nature of the accusation in the first information report and the fact that applicant has already joined the investigation, in my view, there is no need of giving custodial presence of the applicant to the investigating agency. Consequently, I pass following order:

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.620/2019 registered with Police Station, Chikhali, Tah. Chikhali, Dist. Buldhana for an offence punishable under Sections 376(2)(n), 376, 323, 504 and 506 of the Indian Penal Code, applicant – Mangal s/o Ashok Natwal, be released on bail on he executing P.R. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant is directed to attend Police Station, Chikhali, Tah. Chikhali, Dist. Buldhana as and when called by the investigating officer. However, for that the investigating officer shall give clear cut 24 hours' prior written communication to the applicant.
- (iv) The applicant shall not give any type of threat to the victim.
- (v) With this, the application is allowed and disposed of.

JUDGE