

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

CRIMINAL APPLICATION (ABA) NO. 785 OF 2019

Harish s/o Ramrao Dande .Vs. State of Maharashtra through PSO P.S.
Washim (City), Tq. and Dist. Washim .

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

Court's or Judge's orders.

Mr. S.N. Sonare, Advocate for applicant.
Mr. V.A. Thakare, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.
DATED : DECEMBER 06, 2019

Heard Mr. Sonare, learned counsel for the applicant and Mr. Thakare, learned Additional Public Prosecutor for the non applicant-State. Also perused the reply filed on behalf of the State to oppose the application for anticipatory bail.

The applicant is apprehending his arrest in connection with Crime No.476/2019 registered with Police Station, Washim (City), Tq. and Dist. Washim for an offence punishable under Sections 376(2)(n), 494, 323, 506 read with Section 34 of the Indian Penal Code.

Crime is registered in view of the report lodged by the victim on 04.10.2019.

Both the victim and applicant are police constables and they are working in Police Department. In short, the victim's version is that the applicant gave a promise to her that he will marry with her and established sexual relations with her, resulting into pregnancy.

Reply would show that the victim has give birth to a girl child on 14.11.2019 at Government Hospital, Washim.

The applicant is working in constabulary therefore there is no chance that he will not be available to the course of justice. The victim is not only a major woman but she also discharging her duty as police constable. Obviously, sex between two major is consensual one. During the trial it will have to be proved by the prosecution that relying on the promise given by the applicant the victim extended her consent.

The applicant is already medically examined and his medical samples for DNA profiling are already collected. The applicant has already joined the investigation. Looking to the aforesaid fact, in my view, the custodial presence of the applicant is not required. Consequently, I pass the following order:

ORDER

- (i) The application is allowed.
 - (ii) In the event of arrest in connection with Crime No.476/2019 registered with Police Station, Washim (City), Tq. and Dist. Washim for an offence punishable under Sections 376(2)(n), 494, 323, 506 read with Section 34 of the Indian Penal Code, applicant–Harish s/o Ramrao Dande, be released on bail on he executing P.R. Bond in the sum of Rs.15,000/-with one solvent surety in the like amount.
 - (iii) The applicant shall attend Police Station, Washim (City), Tq. and Dist. Washim once in a week i.e. on every Sunday and shall be with the investigating officer from 03:00 p.m. to 05:00 p.m.
 - (iv) Applicant shall not extend any type of threat to the victim.
- The application is disposed of.

JUDGE