

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

CRIMINAL APPLICATION (ABA) NO.810 OF 2019

Prakash s/o Bajirao Avasarmol .Vs. State of Maharashtra,through P.S.O, P.S.
Shegaon, District Buldhana.

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

Court's or Judge's orders.

Mr.S.D. Chopde, Advocate for applicant.

Mr. M.K. Pathan, A.P.P. for non applicant- State.

CORAM : V. M. DESHPANDE, J.

DATED : DECEMBER 20, 2019

Heard Mr. S.D. Chopde, learned counsel for the applicant and Mr. M.K. Pathan, learned Additional Public Prosecutor for non applicant-State. Also perused the reply filed on behalf of the prosecution.

In this application, applicant is apprehending his arrest in connection with Crime no.288/2019 registered with Police Station, Shegaon, District Buldhana for an offence punishable under Sections 376(3) of the Indian Penal Code.

First information report is lodged by victim herself on 22.06.2019. Her report would show that she is aged about 28 years. Applicant Prakash Avasarmol is working in Indian Army in Mahar Regiment Unit-7. The report also shows that applicant and victim are relatives. As per report, on the promise given by the applicant that he will marry with the victim there took sexual relations in between them. The first information report as well as reply filed on

behalf of the prosecution show that the applicant took victim at Agrawal Lodge and Gajanan Maharaj Sansthan, Shegaon and they stayed there for three days and on the promise of marriage, victim agreed for sexual intercourse. According to the first information report and reply, subsequently the applicant turned around and has now engaged with one Swati Sirsat and therefore the report is lodged.

From the first information report and from the reply it is clear that sexual intercourse between the victim and applicant was consensual one. However according to prosecution, that consent was extended because of the promise given by applicant for marriage, which is question of trial. Prosecution will have to prove during the course of trial firstly that there was a promise and believing that promise, there was sex between the two adult persons.

Applicant is working in Indian Army. Therefore there is no chance that he will not be available to the course of justice. This Court granted interim protection on 28.11.2019 on a condition that applicant shall attend the police station on 01.02.2019 to 09.12.2019 and accordingly the applicant has attended the police station and joined the investigation.

In that view of the matter, I pass following order:

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime no.288/2019 registered with Police Station, Shegaon, District Buldhana for an offence punishable under Sections

376(3) of the Indian Penal Code, applicant Prakash s/o Bajirao Avasarmol be released on he executing P.R. Bond in the sum of ₹ 10,000/- with one solvent surety in the like amount.

(iii) Applicant shall attend Police Station, Shegaon, District Buldhana as and when he is called by the investigating officer. However, for that the investigating officer shall give clear cut four days prior written communication to the applicant.

The application is disposed of.

JUDGE

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