

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

CRIMINAL APPLICATION (BA) NO. 6 OF 2020

Prashant Dattatray Zade .Vs. State of Maharashtra, through PSO, PS, Dabki
Road, Akola.

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

Court's or Judge's orders.

Mr. N.R. Tekade, Advocate for applicant.

Mr. S.M. Ghodeswar, A.P.P. for non applicant-State.

CORAM : V. M. DESHPANDE, J.

DATED : JANUARY 22, 2020.

Heard Mr. Tekade, learned counsel for the applicant and Mr. Ghodeswar, learned Additional Public Prosecutor for non applicant-State. Also perused the reply filed on behalf of prosecuting agency and the investigation papers placed before me for my perusal.

Applicant is arrested on 12.12.2019 in connection with Crime No.336/2019 registered with Police Station, Dabki Road, Akola for an offence punishable under Sections 376, 376(2)(n) of the Indian Penal Code.

Principally, the application is opposed by the learned Additional Public Prosecutor that charge-sheet is not filed however he fairly submits that only ministerial act of filing of charge-sheet is remained to be done.

First Information Report (FIR) is lodged by victim herself. It shows that her age is 27 years and she is well educated girl having qualification, B.Sc. Microbiology. As per report, in 2009-2010 when she was taking education at

Gulam Nabi Azad Mahavidyalaya, Barshitakali that time present applicant was her batchmate. They used to commute together to the college by bus or auto-rickshaw. After completing education at *Gulam Nabi Azad Mahavidyalaya, Barshitakali*, for further education the victim took admission at one college at Akola for getting proficiency in computer trade. There the present applicant also took admission in mechanical trade. Gist of accusation against the applicant is that they used to meet intermittently and thereafter regularly, resulting into love affair between them. According to victim, the applicant asked to marry with him and on the promise of marriage there used to be sexual relations between them from 10.07.2019 to 18.11.2019. However, thereafter as per allegations made in the FIR, the applicant turned around from his promise.

From the perusal of the prosecution case it is clear that the victim who is a well educated lady is the consenting party for sexual intercourse with the applicant. According to prosecution case, the applicant gave promise to marry and thereafter only she gave consent. This particular fact will have to be proved by the prosecution during the trial that only upon the promise of marriage, there was a consent.

Since the investigation is almost over and the applicant who is languishing in jail having no criminal past record, he need not continue his jail presence with hardened criminals. That leads me to pass the following order:

ORDER

- (i) The application is allowed.
- (ii) Applicant–Prashant Dattatray Zade be released on bail in connection with Crime No. 336/2019 registered with Police Station, Dabki Road, Akola for an offence punishable under Sections 376, 376(2)(n) of the Indian Penal Code, on he executing P.R. bond in the sum of ₹15,000/- with one solvent surety in the like amount.
- (iii) Applicant is directed to attend Police Station, Dabki Road, Akola twice in week i.e. on every Saturday and Sunday and shall be with the investigating officer from 03:00 p.m. to 05:00 p.m., until filing of the charge-sheet.
- (iv) After filing of the charge-sheet the applicant shall attend Police Station, Dabki Road, Akola once in a month i.e. on last Sunday of every month, until culmination of the trial.
- (v) Until culmination of the trial, applicant shall not enter in Khadan area of Akola.
- (vi) Applicant shall not extend any type of threat to the victim.

The application is disposed of.

JUDGE