

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

CRIMINAL APPLICATION (ABA) NO.691 OF 2020

(Akash s/o Ganesh Mongarkar Vs. State of Maharashtra thr. PSO PS Armori, Dist.
Gadchiroli)

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

Court's or Judge's orders.

Mr. Rajnish Vyas, Advocate for Applicant.
Mr. M.K. Pathan, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 22nd DECEMBER, 2020.

The applicant is apprehending arrest in Crime 258/2020 registered with Police Station Armori, District Gadchiroli for offences punishable under sections 376(2)(n), 417 of the Indian Penal Code.

2. The crime is registered on the basis of report lodged on 24.09.2020 by Ms. 'X'.

3. *Prima facie*, even if the report is taken at face value, it is extremely doubtful whether the offence as alleged, is made out. Ms. 'X' is a matured woman aged 23 years. She befriended the applicant on face-book. The applicant is posted in Jammu and Kashmir as a member of the paramilitary force - Indo-Tibetan Border Police (ITBP). According to Ms. 'X', the applicant came to Gadchiroli in November, 2018 and established sexual

relationship. While Ms. 'X' does state in the report that the applicant declared his unilateral love for her and intent to marry her, it is not the version of the applicant that she was induced or persuaded to consent to sexual relationship believing the said word. Rather, the allegation is that Ms. 'X' refused to oblige and the applicant forced himself on her. However, the subsequent statements in the report belie the version that the consent of the applicant is vitiated. Rather, the possibility that the report is the fall out of a consensual relationship having gone sour, is a real possibility. In any event, otherwise the custodial interrogation is not necessary.

4. The interim protection granted vide order dated 09.11.2020 is made absolute with the only modification that till the charge-sheet is filed, the applicant shall attend the concerned police station as and when required by the Investigating Officer.

JUDGE