

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

46 BAIL APPLICATION NO.969 OF 2021

Rushikesh Somnath Narwade
Age: 22 years, Occu.: Labour,
R/o. Pravara Sahakari Sakhar Kamgar
Vasahat, Pravaranagar, Tq. Rahata,
Dist. Ahmednagar. ..Applicant

VERSUS

The State of Maharashtra ..Respondent

...
Advocate for Applicant : Shri Rajendra K. Temkar
APP for Respondent : Shri S.D. Ghayal

...
CORAM : M.G. SEWLIKAR, J.

DATE: 25th October, 2021

PER COURT:-

1. This is an application under Section 439 of the Code of Criminal Procedure for releasing the applicant on bail in connection with Crime No.0188 of 2021, registered with Shirdi Police Station, Dist. Ahmednagar, under Sections 376 (2) (n), 504, 506 of the Indian Penal Code.

2. Prosecution's case is that the prosecutrix/informant is aged 24 years. She is a married woman having two children. It is alleged in the FIR that the applicant is the neighbour of the informant. Friendship developed between the applicant and the

informant, which blossomed into love. Applicant started having sexual intercourse with the informant putting her in fear that he would divulge their love affair to her husband. By blackmailing informant, he started having sex with the informant. Finally, she lodged complaint against the applicant on 26th May, 2021 under the aforesaid Sections.

3. Heard Shri R.K.Temkar, learned counsel for the applicant and Shri S.D.Ghayal, learned APP for the respondent-State.

4. Shri Temkar, learned counsel for the applicant submits that informant is major having two kids. The tenor of the FIR shows that the alleged sexual intercourse was with consent. Charge-sheet is filed. He, therefore, seeks release of the applicant on bail.

5. Learned APP for the respondent-State opposed the application.

6. From the FIR, it appears that the first alleged sexual intercourse took place in the month of October, 2020. From the tenor of the FIR, it appears that the applicant is the neighbour of the informant. They got acquainted with each other and their

acquaintance turned into love affair. Charge-sheet is filed. Only after recording evidence, it will be clear whether alleged consent was under fear of injury or under misconception of facts. In view of this, I am inclined to release the applicant on bail. Hence, the order :

ORDER

- i) Bail Application is allowed.
- ii) Applicant be released on P.R.Bond of Rs.15,000/- (Rs. Fifteen thousand only) with one solvent surety in the like amount, in connection with Crime No.0188 of 2021, registered with Shirdi Police Station, Dist.Ahmednagar, under Sections 376 (2) (n), 504, 506 of the Indian Penal Code.
- iii) Bail Application is disposed of.
- iv) It is clarified that the observations made in the above order are restricted to the decision of this application only and the trial Court shall not get influenced by the same and can come to its independent conclusion during trial.

**(M.G.SEWLIKAR)
JUDGE**