

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

CRIMINAL APPLICATION (APPA) NO.55 OF 2021

IN
CRIMINAL APPEAL NO.49 OF 2021

Vinod s/o Shantaram Bawne (In Jail)

..vs..

State of Maharashtra, thr. its P.S.O.

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

Court's or Judge's orders

Shri R.R. Vyas, Advocate for appellant/Applicant.
Ms. T. Udeshi, A.P.P. for respondent.

CORAM : SMT. ANUJA PRABHUDESSAI, J.
DATED : 04/02/2021

1. The Applicant herein who has been convicted for the offence punishable under Section 376(2)(n), 506 of the Indian Penal Code has filed this application under Section 389 of the Code of Criminal Procedure for suspension of sentence and for release on bail.

2. The crime was registered pursuant to the First Information Report No.48/2015 lodged by the victim. The case was investigated and charge-sheet was filed before the learned Magistrate and the case being Sessions Trial, was committed to the Sessions Court, Gadchiroli. Learned Sessions Judge after appreciating the evidence adduced by the prosecution, has held the Applicant guilty for the offence punishable under Section 376(2)(n) and 506 of the Indian Penal Code.

3. Having gone through the records, it is seen that the Applicant and the victim were known to each other. They have indulged in sexual activity on several

times. The victim claims that the accused had promised to marry her. The relationship, *prima facie* appears to be consensual. It appears that First Information Report has been lodged since the Applicant herein had refused to marry the victim. Whether her consent was based on misconception of fact is the question which needs to be decided on merits.

4. Considering the above facts and circumstances and in my considered view, this is a fit case for suspending the execution of sentence. Hence, the following order :

- (a) The Criminal application is allowed.
- (b) The Applicant i.e. Vinod s/o Shantaram Bawne is released on bail subject to furnishing P.R. bond of Rs.20,000/- with one surety in the like amount.
- (c) Execution of substantive sentence is suspended till the disposal of the appeal
- (c) The Applicant shall not interfere with the victim in any manner.
- (d) The Applicant shall remain present as and when required by this Court.

5. The Criminal Application stands disposed of accordingly.

CRIMINAL APPEAL NO. 49 of 2021

Heard.

2. **ADMIT.**

3. Learned A.P.P. waives notice on behalf of respondent-State.

4. Call for the Record and Proceedings.

5. Paper Book be filed within four weeks.

JUDGE

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