

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

CRIMINAL APPLICATION (ABA) NO.151 OF 2021

(Manoj s/o Radheshyam Yadav Vs. State of Maharashtra thr. PSO PS Kapilnagar,
Nagpur)

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

Court's or Judge's orders.

Mr. R.S. Akbani, Advocate for Applicant.
Mr. N.S. Rao, APP for Non-Applicant/State.

CORAM: ROHIT B. DEO, J.

DATE: 31st MARCH, 2021.

Hearing was conducted through video conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. The applicant is apprehending arrest in Crime 13/2021 registered with Police Station Kapilnagar, Nagpur for offences punishable under Sections 498-A, 377, 323, 504 and 506 read with Section 34 of the Indian Penal Code.

3. The crime is registered on the basis of report dated 11.01.2021 lodged by the wife of the applicant Mrs. 'R'.

4. The most serious allegation in the report is that Mrs. 'R' was forced to submit to unnatural sex. However, since Mrs. 'R' has refused to undergo the medical examination, at this stage, even a *prima facie* view as regards the allegation cannot be taken.

5. The rest of the allegations cover the timeline November 2018 till the lodging of the report.

6. I have perused the statements recorded, which are part of the investigation papers.

7. *Prima facie*, the possibility that there is either over implication or exaggeration, cannot be brushed under the carpet. It does appear that there is a marital discord. However, assuming that there is some substance in the allegations and that the informant was treated with cruelty, in my view, custodial interrogation is not necessary. The applicant is not a flight risk. It is not even the case of the prosecution that he has adverse antecedents or that he has not attended the police station as directed.

8. I am satisfied that if the applicant is protected, the investigation shall not be adversely affected.

9. The pre-arrest protection granted vide order dated 09.03.2021 is made absolute with the only modification that till the filing of the charge-sheet, the applicant shall attend the concerned police station as and when directed by the Investigating Officer.

JUDGE