

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

Criminal Application (BA) No.316 of 2021

Pandurang Harishchandra Pargave

Vs.

State of Maharashtra through the P.S.O. Ramtek, Nagpur

Office notes, Office Memoranda of
 Coram, appearances, Court's orders
 or directions and Registrar's orders.

Court's or Judge's Orders

Shri R.H. Rawlani, Advocate for the Applicant.

Shri M.A. Kadu, APP for the Non-applicant/State.

CORAM : **S.M. MODAK, J.**
RESERVED ON : **28th APRIL, 2021.**
PRONOUNCED ON : **5th MAY, 2021.**

Hearing was conducted through Video Conferencing and the learned Counsel agreed that the audio and visual quality was proper.

02] Heard learned Advocate Shri R.H. Rawlani for the applicant and learned APP Shri M.A. Kadu for the non-applicant.

03] This is one more instance wherein it can be said that all the principles of morality have vanished. The applicant who was working in a medical store at Village - Halki, District - Latur fell in love with the first informant /victim (name not disclosed). She was a married lady whose husband expired in the year 2009 and was having one son. She was teaching in a school at Village – Theregaon, Taluka - Shirur Anantpal, District - Latur. She got acquainted with the applicant as the medical store was near that school.

04] Both of them fell in love with each other and decided to marry. After passage of time, first informant came to know about vices of the applicant. She avoided to meet the applicant. The applicant got

annoyed and became restless. He went to the extent of threatening her and to kill her son.

05] The first complaint was lodged with Andhadgaon Police Station on 29th March, 2019. The applicant went to the extent of threatening the victim from making the obscene photograph and video viral. The case is going on in Mohadi Court. Due to the affection or the allurements or due to threat, the victim came to Nagpur on three occasions. She stayed in two lodges at Ramtek. One at Rajmahal Lodge and second Blue Diamond Lodge at Ramtek. It was in the month of July, 2019, on 30th December, 2019 and on 6th March, 2020. In the lodge, the applicant ravished the victim.

06] The relationship went to the extent of compelling the first informant to part away the amount on various occasions and it comes to Rs.4,00,000/-. At the end, the first informant was fed up with the attitude of the applicant and she got married with one Rahul Kamble on 14th July, 2020. The applicant was unhappy. He went to the extent of circulating the obscene photos and videos involving the first informant on WhatsApp group created in the name of victim. Her husband came to know about these photos. Even the teachers at Village – Jamb, District - Buldhana came to know about these photos. The first informant being ashamed filed complaint with Andhalgaon Police Station, Bhandara. It was transferred to Ramtek Police Station. The offence under Sections 376(2)(n), 354(D)(2), 347, 386, 500, 504, 506 of IPC read with Sections 66(E) and 67(A) of the Information Technology Act, 2000 was registered. The applicant came to be arrested. Charge-sheet was filed in Sessions Court, Nagpur. His bail application prior to charge-sheet and after charge-sheet came to be rejected.

07] I have gone through the charge-sheet with the assistance of both the sides. It is true that both were knowing each other from 2012 till today. It is true that police have collected the medical certificate as well as the documents relating to stay of the victim and the applicant in the lodges at Nagpur. As such, the medical evidence may not be much importance. It is also true that the police have collected the statements of accounts from the State Bank of India (banker of the complainant) and from Bhandara District Central Co-operative Bank (banker of the accused). It is also true that this is not the case of instance of rape on one occasion, but repeatedly, that is why, Section 376(2)(n) of the Indian Penal Code, 1860 is applied.

08] The entire incident can be looked from two angles. One is the victim was compelled to go to Ramtek and stay in the lodge, and it is due to the assurance to delete the obscene photos. Another angle is the victim in spite of sexual intercourse under some assurance have not taken any action till the time these photos were made viral. For payment of Rs.4,00,000/- there are two versions. One is payment made by the victim due to the pressure of the applicant. Second is it is towards repayment of the hand loan/financial assistance given by the applicant to the victim while procuring the job in a school at Village - Jamb, District - Bhandara. This is the version of the accused.

09] It is also true that during investigation, police have seized the mobile of the victim, her husband-Rahul Kamble and of the accused. They have also seized memory card containing the obscene video clips. They have also transferred the obscene video from the mobile of the husband of the victim to computer. So also, the voice sample of the applicant and the victim are taken.

10] If we read the transcript of the talks in between the accused and the victim, we can find that the wordings are so vulgar that no decent man will use such vulgar word. It seems that in that talk the applicant has abused the second husband of the victim.

11] On this background, the question is whether the further detention of the accused is warranted? After considering the above aspects, I think that applicant can be granted bail. Even though it may be true that in spite of the registration of the first offence with Andhadgaon Police Station on 29th March, 2019, he went to the extent of threatening the victim from circulating the obscene photos. This conduct of the applicant is emphasized more on behalf of the prosecution to deny him the relief of bail.

12] A copy of earlier First Information Report dated 29th March, 2019 is filed along with charge-sheet. There also the victim has alleged about threat given by the applicant to circulate the obscene photos. This court is aware that only the issue for grant of bail is involved, so detailed observations about merits of the matter are not warranted. But this Court needs to give the reasoning for grant of bail. The observations will not prejudice the mind of the trial Court. Because during the trial, the scope is more wider.

13] The victim visited Ramtek lodge on three occasions. It may be voluntary act or may be the act under compulsion. But it is important to note that the First Information Report was lodged not on earlier occasions. It is also true that the act of creating WhatsApp group by the accused is certainly objectionable. The manner in which the WhatsApp group is created, is explained by the two witnesses namely Vivek Thakure and Ajay Baswane. The witness-Ajay Basawane

is a friend of the applicant and the applicant insisted the witness-Ajay to give one cell number and then it was misused.

14] It is also true that there are statements of the teachers from the school of the victim. They have stated about viewing obscene photos of the victim. All electronic evidence is sent for analysis to Forensic Science Laboratory. The offence under Information Technology Act is also registered. It is also true that there are financial transactions in between the victim and the accused. Bank statements are also on record. The applicant pursued the victim on part away that amount. But it is not the case of the prosecution that any amount is recovered from the applicant. The applicant has got the different version about this dealing. It is towards repayment of the loan given to the victim.

15] This Court feels to grant bail considering the case from both the angles i.e. from angle of the applicant as well as from the angle of the victim. This Court feels that any more detention is not required. Bail should not be refused just to keep the accused behind bar, only with a view to undergo sort of punishment to wrong doer. There is apprehension about misuse of the liberty if admitted to bail. This can be taken care by imposing conditions. Because this Court feels that otherwise the applicant is entitled to bail. Hence, the following order:

ORDER

- a) The application is allowed.
- b) Applicant-Pandurang Harishchandra Pargave is released on bail on furnishing personal bond and surety bond of Rs.50,000/- (Rs. Fifty Thousand Only).

- c) The applicant not to enter the district of Bhandara until completion of the trial.
- d) The applicant not to threaten the prosecution witnesses or to allure them in any manner.
- e) The applicant is directed to give attendance to Ramtek Police Station on first Sunday of every month in between 10.00 AM to 12.00 Noon until completion of trial.
- f) If the applicant will breach any of the conditions of this order, the Investigating Agency is at liberty to apply for cancellation of the bail.

(S.M. Modak J.)