

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

Criminal Application (ABA) No. 392/2021

Soniya w/o Pankaj Patiyal

..VS..

State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri C.B. Barve, Advocate for the applicant
Shri I.J.Damle, APP for the non-applicant/State

CORAM : VINAY JOSHI, J.

DATED : 04/08/2021

The applicant-lady is seeking for pre-arrest bail in Crime No. 63/2021 registered at Police Station Sonegaon, District – Nagpur for the offences punishable under Sections 406, 409 and 420 read with Section 34 of the Indian Penal Code.

2. It is prosecution case in brief that the applicant's husband, namely, Pankaj (co-accused) was doing catering business. At his instance, the informant time to time invested amount of Rs.9,00,000/- with him on assurance to give lucrative returns and under assurance that the informant will be made a partner in the business. It is further alleged that all the time the applicant was accompanying with her husband (main accused) and also assured about the promises given by her husband.

Prima facie, the entire F.I.R. says that the amount was received by husband, who is already arrested and in police custody.

3. Shri C.B. Barve, learned Counsel for the applicant, made one another submission that one lady, namely, "X" has lodged a report prior to existing F.I.R. alleging that the applicant's husband – Pankaj had raped her and her consent was obtained under false promise to marry. It is his submission that in the said complainant also there are allegations that the existing applicant and her husband had cheated several persons including existing informant. Precisely, it is his contention that it is a case of *Double Jeopardy*.

4. The prosecution has resisted for grant of bail by filing reply-affidavit. It is contended that the applicant alongwith her husband have duped the informant and several other persons.

5. Upon perusal of case diary and particularly the report of informant which indicates that from time to time the amount was allegedly given to the husband of the applicant. Precisely, it is alleged that the applicant was merely present with her husband and the husband has received the amount.

6. Having regard to the nature of allegations and the applicant is lady, the course of investigation can go on by directing the applicant to attend the

investigation by protecting her liberty. The applicant has made out a case to exercise judicial discretion, hence, following order :

(a) In the event of arrest the applicant Soniya w/o Pankaj Patiyal in Crime No. 63/2021 registered at Police Station Sonegaon, District – Nagpur for the offences punishable under Sections 406, 409 and 420 read with Section 34 of the Indian Penal Code, be released on bail on her furnishing PR. bond of Rs.50,000/- with one or two sureties in the like amount.

(b) The Applicant shall attend concerned Police Station on every Sunday and Thrusday in between 11.00 a.m. to 02.00 p.m. till filing of charge-sheet to facilitate the investigation.

(c) The Applicant/accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case, as also shall not tamper with the evidence.

JUDGE