

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

CRIMINAL APPLICATION (ABA) NO.408 OF 2020

Roshan S/o Vijay Khursankar and seven

...**Versus**...

State of Maharashtra through P.S.O., P.S. Ajani, Nagpur.

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

Court's or Judge's

Shri. S. V. Tadas, Advocate for applicant
Shri. M. K. Pathan, APP for Respondent/State
Ms. S. H. Bhatia, Advocate for informant.

CORAM : **N. B. SURYAWANSHI, J.**
DATE : **15th JUNE, 2021.**

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

2. Heard the learned Advocate for the applicants and the learned Addl. Public Prosecutor for respondent/State.

3. The applicants have preferred this application apprehending their arrest in Crime No.0446 of 2020 registered with Ajani Police Station, Nagpur for the offences punishable under Sections 376, 420 and 504 read with Section 34 of the Indian Penal Code and under Section 4 of the Dowry Prohibition Act, 1961.

4. The informant/victim lodged F.I.R. contending that her marriage was fixed with

applicant no.1. At the time of fixation of marriage, the applicants demanded dowry in the form of Rs.2,50,000/- cash, gold ring and gold chain weighing one tola, cloths for the relatives of both the sides and expenses of marriage. When the family of the informant refused to pay the dowry, the applicants called off the marriage eight days before the date of marriage. It is further contended that on the false pretext of marriage, the applicant no.1 established physical relations with the informant by giving her threats of committing suicide, if she refuses. The physical relations were established without the consent of the informant.

5. At the time of lodging F.I.R., the informant was 33 years of age, *prima facie*, the allegations appear to be after thought, there is strong possibility of consensual physical relations between applicant no.1 and the informant. The allegations against the applicant nos.2 to 8 are about demand of dowry and calling off the marriage. The offence was registered on 27.08.2020. On perusal of Case Diary, it appears that investigation is almost complete. Custodial detention of the applicants at this stage is not warranted in the facts of the present case. The applicants were granted interim protection on 28.09.2020. The applicants have attended the

Police Station and have co-operated in the investigation.

6. The learned APP has opposed the application stating that custodial interrogation of the applicant no.1 is necessary in the matter as there are serious allegations against applicant no.1.

7. Taking into consideration the fact that the offence is registered in the year 2020 and the investigation is almost complete, no useful purpose would be served by custodial detention of the applicant no.1, as nothing is to be recovered from him. The learned APP fairly states that mobile handset of the applicant no.1 is already recovered as well as his medical examination is also conducted.

8. Taking into consideration the fact that investigation is almost complete, the application deserves to be allowed and the same is hereby allowed, in terms of the interim order dated 28.09.2020. The applicant no.1 shall attend the concerned Police Station as and when called by the Investigating Officer. Criminal application is disposed of.

9. Ms. S. H. Bhatia, Advocate was appointed to represent the informant. Her assistance in the present matter is appreciated.

Her fees is quantified @ Rs.5,000/-. The High Court Legal Service Sub-Committee, Nagpur shall pay the fees to the learned Advocate Ms. S. H. Bhatia within a period of four weeks from today.

(N. B. SURYAWANSHI, J.)

TAMBE