

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

CRIMINAL APPLICATION [ABA] NO. 487 OF 2021.

Shubham Anandrao Chahare.

-VERSUS-

The State of Maharashtra, through P.S. Virur, District Chandrapur.

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

Court's or Judge's Orders

Shri A.S. Ambatkar, Advocate for the Applicant.
Shri H.D. Dubey, A.P.P. for the Non-applicant.

CORAM : VINAY JOSHI, J.

DATE : SEPTEMBER 17, 2021.

Heard.

2. The applicant is seeking pre-arrest bail in connection with Crime No.180/2021 registered with the non-applicant – Virur Police Station for offence punishable under Sections 376[2][n] and 417 of the Indian Penal Code.

3. At the instance of report lodged by the victim lady, aged 22 years, the aforesaid crime came to be registered on 03.07.2021. It is her case that she got acquainted with the applicant somewhere in the month of November, 2019. Thereafter intimacy was

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developed in between them, which turned into love relationship. The victim stated that the applicant was expressing his love, and desire to marry her. In the meantime, they had physical relationship. The victim further stated that all the time the applicant kept on giving promise to marry, but, did not marry.

4. Finally on 01.07.2021, the applicant came to her house and again had sexual intercourse under premise of marriage. The victim realized that the applicant may not marry her, and therefore, she lodged the report.

5. The State has resisted the bail by filing reply-affidavit.

6. Perused case diary and documents produced by the applicant. The learned Counsel appearing for the applicant has submitted that at the most it is a case of consensual sex. He would submit that the allegations leveled in the first information report are false. In support of said contention, he has produced photo copy of the proceedings which took place in between them at Bharosa Cell. He has pointed noting dated 28.06.2021, wherein the victim has put

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her grievance against the applicant and asked to refer the matter to the police for suitable action. On that count, it is submitted that in view of such noting it is not possible that thereafter again on 01.07.2021, the applicant would visit the house of the informant to enjoy sexual favours.

6. Be that as it may, the date of birth of victim is 05.05.2000, meaning thereby she attained majority on 04.05.2018. Allegations of sexual relation are post November, 2019, at which time she was major i.e. at the time of alleged sexual intercourse. Failure to perform the assurance and false premise to marry, are two distinct aspects. During trial it has to be proved that since inception the accused was having deceitful intention, and under false premise, he has sexually exploited the lady. Undeniably, there was love affair in between two majors, in which they have crossed the limits. The contents of first information report nowhere makes out case that the applicant has forcefully kept sexual relations. Having regard to all these facts, there is no cause for custodial interrogation. The applicant can be directed to facilitate the investigation

by putting him on certain terms. Hence, the following order :

- (i) Criminal Application is allowed and disposed of.
- (ii) Ad-interim order passed by this Court on 05.08.2021 is hereby made absolute on same terms and conditions.
- (iii) In addition, the applicant/accused shall not enter into the territorial limits of village Virur, except for attending the police station on the scheduled days.
- (iv) The applicant/accused shall attend the concerned police station on every Sunday in between 11 a.m. to 2 p.m. till the filing of charge sheet or for three months, whichever is earlier.
- (v) The applicant/accused shall make himself available for medical / clinical examination, as and when called by the investigating officer.

Rgd.

JUDGE