

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

CRIMINAL APPLICATION (APPP) NO.1253 OF 2021

IN

CRIMINAL APPLICATION (ABA) NO.428 OF 2021

Vijay s/o Govindrao Jadhav

Vs.

State of Maharashtra through Police Station Officer, Police Station, Buldhana (City), District
Buldhana.

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

Court's or Judge's orders

Shri A. J. Thakkar, Advocate for applicant.
Shri I. G. Damle, APP for non-applicant.

CORAM : VINAY JOSHI, J.

DATED : 11/08/2021

The applicant seeks to produce some
documents to enable him to put his defence.

Application is allowed and disposed of.

CRIMINAL APPLICATION (ABA) NO.428 OF 2021

1. The Police of Buldhana City Police Station lodged report vide Crime No. 571 of 2021 for the offences punishable under Sections 354 and 354-A of the Indian Penal Code, against the applicant. In anticipation of arrest in said crime, the applicant has approached for grant of pre-arrest protection.

2. It is primarily canvassed that there was old dispute in between the applicant and informant which resulted into lodging false report out of revenge. Moreover, it is submitted that the applicant has co-operated police by giving attendance and his medical examination has also been conducted.

3. The State resisted bail by filing reply/ affidavit. It is contended that the alleged offence is of serious nature touching to the chastity of a woman, hence the applicant is not entitled for pre-arrest bail.

4. Informant – lady aged 41 years has lodged report regarding the occurrence. She stated that the applicant was of her acquaintance who accidentally meet her in the Court premises. Since informant's husband was in jail, applicant called her at his house for helping her in securing bail to her husband. Accordingly, on 24.06.2021, the informant along with her grownup son went to the house of applicant. The informant's son went outside to bring some papers, but in the meantime applicant caught hold the informant and demanded sexual favours. He

also asked her do obscene things, to which she refused.

5 It is argued that as per the contents of FIR itself applicant's wife was in the house itself, therefore the alleged incident is improbable. Moreover, applicant has filed copy of counter FIR lodged by his wife on the same day stating a different version about informant raising monetary demand. In order to impress the old rivalry, the applicant has produced photocopies of the proceedings filed in the year 2018 by applicant's wife against mother-in-law of the informant before the Collector, Buldhana. On that basis, it is canvassed that, since the year 2018, the parties were in rival terms, therefore, it is improbable that informant – lady would go to the house of the applicant for taking his advice and assistance.

6. Be that as it may, the alleged offence is of use of criminal force to a woman for which the punishment would extend to five years imprisonment. Already applicant has been medically examined. Having regard to the nature of accusation nothing is to be seized at the instance of the applicant.

(4)

10.ABA.428.2021

7. Considering overall circumstances, the applicant's liberty can be protected by directing him to join the course of investigation. In view of that following order:

- (i)- Criminal Application stands allowed.
- (ii)- Ad-interim order dated 14.07.2021 is hereby made absolute on same terms and conditions with modification that applicant shall continue to attend Police Station on every Sunday between 10.00 a.m. to 12.00 noon, till filing of charge-sheet.

JUDGE

Sarkate