

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

CRIMINAL APPLICATION (ABA) NO. 586 OF 2020

Santosh Rajaram Dandge

..vs..

State of Maharashtra, thr. P.S.O.

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

Court's or Judge's orders

Shri S.V. Sirpurkar, Advocate for Applicant.
Shri A.M. Kadukar, A.P.P. for non-applicant/State.
Shri Alok Daga, Advocate for intervenor.

CORAM : VINAY JOSHI, J.

DATED : 28/07/2021

Hearing was conducted through Video Conferencing.

2. In anticipation of arrest in Crime No.233/2020 registered with Tamgaon Police Station, District Buldhana for the offence punishable under Sections 376(1), 376(2)(n) and 506 of the Indian Penal Code, the applicant is prayed for pre-arrest protection.

3. Learned Counsel for the applicant submitted that the allegations leveled in the First Information Report are totally false and at the most it is a case of consensual sexual relationship. He denied that the applicant was possessing any obscene video clips of the informant-lady. Lastly, it is submitted that the applicant has co-operated to the Investigating Agency

and also surrendered a mobile hand set, which was under use.

4. The non-applicant/State resisted bail application by filing affidavit-in-reply. Shri Alok Daga learned Counsel for the informant/intervenor in resistance submitted that the offence is of serious nature. The applicant by putting prosecutrix under threat and by giving assurance, had sexually exploited her for six years. According to him, the applicant had not surrendered the mobile hand set containing obscene photographs of the informant and therefore, custodial interrogation is necessary.

5. The informant is a grown-up lady of 35 years of age. It is her case that she was having matrimonial dispute with her husband. In the year 2014, she met with the applicant in Sangrampur Court, where the later assured her to help in matrimonial proceedings. She stated that thereafter, on or often they met and had developed intimacy. According to the applicant, first time on 16.06.2014, the applicant came to her house and had sexual relations by promising her for helping to allot a Gharkul in government scheme. Thereafter, time to time he kept on continuing his assurance and by threatening her had sexually exploited the informant. Finally, on 06.09.2020, when she went to the Petrol Pump of the applicant later assaulted her and threatened that if, she disclosed

their relationship, then he would make viral her obscene photographs.

6. *Prima facie*, it appears that it is a case of consensual sexual relationship. The only question is whether it was a free consent or it is case of misconception of facts. According to the informant, the reason for succumbing to the wishes of the applicant, was his assurance to help in allotting a Gharkul and threats of causing hurt to her daughter. The first alleged occurrence took place in the year 2014, and according to the informant herself for long six years under same assurance and threat, she succumb her body, which appears to be something strange. It is not a case that after first occurrence within one or two years, she realized that the assurance was false, but this is not the case.

7. Learned Counsel for the applicant has placed on record a copy of N.C. report lodged by the applicant on 06.09.2020 alleging that on that day, the victim/informant came to his business place and picked up quarrel. Pertinent to note that on the very day, the victim also lodged N.C. report which is silent about her long story. Moreover, it reveals that on the following day of the N.C. report lodged by the applicant she went to the Police with a long story of sexual exploitation for six years.

8. This Court has granted interim protection to the applicant prior to six months which is prevailing till date. The applicant has surrendered one mobile hand set which is not in dispute. However, the resistance is on the point that the applicant has not surrendered his another mobile hand set containing obscene video clips. To counter the said submission, it is contended that since the story of taking obscene video clips, itself is false, there is no question of surrendering another mobile. On my quarry, learned A.P.P. stated that he is not having any information whether the applicant is having any other sim. In the first part of story narrated in First Information Report, there is no allegation about taking obscene photographs, but, the same is reflected at the time of last occurrence dated 06.09.2020.

9. Having regard to the long standing relationship with a grown-up lady, it is a matter of trial to prove whether the consent was free or obtained under compulsion or threat. The story stated in First Information Report itself discloses that a lady herself was freely visiting the house of the applicant, at the time when the applicant's wife was away, which speaks itself. The above observations are *prima facie* one and had no impact on the merit of the case.

10. Having regard to all these facts, the applicant has made out a case for grant of pre-arrest protection,

hence, the following order :

- (a) The Criminal Application stands allowed.
- (b) Ad-interim order dated 05.10.2020 is hereby made absolute on same terms and conditions. The applicant shall not enter into the limits of Taluka Sangrampur, District Buldhana till conclusion of trial, unless obtain necessary permission from the Trial Court.
- (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.
- (d) Breach of any condition would give rise to the prosecution to move this Court for cancellation.

JUDGE

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