

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

CRIMINAL APPLICATION (ABA) NO. 509 OF 2021

Mr. Vijay Kondayya Hivarkar
..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 Rajnish Vyas, Advocate for applicant.
Shri M.J. Khan, A.P.P. for non-applicant/State.
Shr V.N. Morande, Advocate for informant.

CORAM : VINAY JOSHI, J.
DATED : 27/09/2021

Heard.

2. It is the prosecution case that the applicant was following the informant-girl aged 16 years, from two year preceding to the occurrence. On 25.05.2021, the applicant accosted the informant in the way, expressed his love and forcibly made her to sit on his motorcycle. Thereafter, the applicant took the informant to his relatives house and on the following day, left her near her village.

3. Learned Counsel for the applicant would submit that it is a case of love affair where the informant-girl who was of understanding capacity, herself accompanied applicant to his relative's house. He has pointed that the informant-girl in her report itself stated that they had no sexual relations though

both of them stayed one day in the house. It is a matter of trial to establish whether the act of the applicant can be construed as a taking away from lawful guardianship.

4. The State has resisted bail by filing reply-affidavit. Learned Counsel for the informant expressed that there is danger to the safety of the informant and the applicant may interfere in the course of investigation.

5. Having regard to the nature of accusation, nothing is to be seized from the applicant. *Prima facie*, there is substance in the contention that the incident is out come of relationship between the young couple. Having regard to these fact, there is no necessity to have custodial interrogation of the applicant. The applicant's liberty can be protected by imposing certain conditions to take care of fear expressed by the other side. In view of that following order :

- (a) The Criminal Application is allowed and disposed of.
- (b) Ad-interim order dated 13.08.2021 is hereby made absolute upon same terms and condition as regards to amount of security and bond.

- (c) The Applicant/accused shall not enter into the territorial limits of Tahasil Aheri till filing of the charge-sheet.
- (d) 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.
- (e) The Applicant/accused shall provide his residential address and cell number to the concerned Investigating Officer where he intend to reside

JUDGE

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