

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

CRIMINAL APPLICATION (ABA) NO. 513/2021

(Anup S/o Kishor Ganatra Vs. State of Maharashtra)

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

Court's or Judge's Orders

Shri R. R. Prajapati, Advocate for applicant.
Shri M. J. Khan, APP for non-applicant/State.

CORAM : VINAY JOSHI, J.
DATE : 05.10. 2021.

Heard.

2. In anticipation of arrest in Crime No.313/2021, registered with the Nandanwan Police Station, Nagpur for offence punishable under Sections 376(2)(j), 109 and 506 of the Indian Penal Code, applicant is praying for pre-arrest protection.

3. On the basis of report dated 12.06.2021 lodged by informant-lady, aged 32 years, the crime was registered. Informant stated that her husband used to reside at Gondia whilst she was staying at

2

Nagpur. The applicant being her distant relative, was frequenting at her house. On 27.12.2017, the applicant came to her house along with co-accused and had committed forcible sexual intercourse with her without her will and consent. He repeated the thing after 15 to 20 days. Thereafter, applicant has shown her some nude photographs and by threatening her to make it viral, had exploited her sexually. Again those things were repeated in the month of December 2020. Then on intervening night on 11.06.2021 to 12.06.2021, he again came into the house of informant and forcibly committed sexual intercourse.

4. Learned counsel for the applicant would submit that the story narrated in First Information Report (FIR) is totally false and fabricated. He would submit that the applicant has borrowed some amount from informant's husband who is money lender. The informant and her husband used to threaten and pressurize the applicant for which he has lodged report on

3

30.05.2021 which was registered vide N. C. No. 329/2021. It is submitted that in order to pressurize the applicant, false report has been lodged.

5. It reveals from the contents of FIR that first alleged occurrence is dated 27.12.2017. However, for next four years, no report has been lodged. It requires to be noted that the applicant has already filed the Police Report on 30.05.2021 against informant therefore, the genuineness of the incident occurred thereafter on 11.06.2021, is a matter for consideration. Having regard to the said facts, possibility of false implication cannot be ruled out.

6. While resisting bail, learned APP pointed out the medical report of informant wherein there are some bite injuries on the person on informant. Learned APP would submit that said medical evidence corroborates the incident dated 11.06.2021. However, it is a matter of trial

4

that whether the injuries was the result of the applicant's act. Besides that, the informant is well grown up lady aged 32 years. Possibility of consensual relationship also requires to be tested. The applicant has already attended the Police Station, his mobile has been seized and he has been medically examined. In view of above, the applicant has made out a case for grant of pre-arrest bail. Hence, following order:-

(I) Application stands allowed and disposed of.

(II) Ad-interim order dated 17.08.2021 is hereby made absolute upon same terms and conditions.

(III) The applicant shall attend the concerned Police Station continuously till the filing of charge-sheet or for the period of 90 days whichever is earlier.

JUDGE

Gohane.