

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

CRIMINAL APPLICATION (BA) NO. 1045 OF 2021

(Saurabh s/o Dharmendra Ambade ..vs.. State of Maharashtra, through PSO, PS Mankapur, Nagpur)

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

Court's or Judge's orders

Mr. A.M. Jaltare, Counsel for the applicant,
Mr. M.K. Pathan, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 12-10-2021

The applicant, who was granted pre-arrest bail in connection with Crime 138/2021 registered with Mankapur Police Station, Nagpur for offences punishable under Sections 376(2) and 313 of the Indian Penal Code, is seeking regular bail.

2. The applicant preferred an application seeking discharge.

3. According to the learned Counsel Mr. A.M. Jaltare for the applicant, on 17-9-2021 the prosecution was to file reply to the discharge application. The applicant was not in a position to attend the Court and on his instructions, the learned Counsel preferred an application (Exhibit 16) seeking exemption from personal appearance.

4. The learned Sessions Judge noted that on the earlier date, vide order below Exhibit 15, while allowing

the personal exemption, the accused was directed to appear without fail. The learned Trial Court was pleased to reject the application Exhibit 16 and non-bailable warrant was issued.

5. The applicant appeared before the learned Sessions Judge on 18-9-2021 and preferred application for cancellation of non-bailable warrant. This application was rejected and the applicant was taken in custody.

6. The applicant then preferred an application for bail which is rejected by the learned Sessions Judge on the premise that the applicant is habituated to remain absent. The learned Sessions Judge referred to order dated 04-8-2021 below Exhibit 11 and the order dated 03-9-2021 below Exhibit 15, and noted that the applicant remained absent on 17-9-2021 despite the direction issued to remain present positively.

7. From a legalistic perspective, it is difficult to find fault with the approach of the learned Sessions Judge. The intent is obviously to ensure expeditious trial and to instill respect for the process of law. No exception can be taken to the observations of the learned Sessions Judge.

8. However, considering the fact that the learned Counsel Mr. A.M. Jaltare has assured this Court that the applicant shall not remain absent even on a single occasion, and absence on even a single date of hearing

may be considered seriously, I am inclined to give one opportunity to the applicant. The applicant suffers from a disability and a portion of the left limb is amputated and the applicant is required to use an artificial limb. I may further note that on the premise that the relationship was consensual, at least *prima facie*, the pre-arrest protection order appears to have been passed.

9. This application is allowed.

10. The applicant shall be released on bail on executing personal bond of Rs.25,000/- (Rupees Twenty Five Thousand) with a solvent surety of like amount.

11. The applicant shall attend each and every date of hearing scrupulously.

12. It is made clear that if the applicant fails to attend even a single date of hearing, without referring the matter to this Court, the learned trial Judge shall be expected to take the applicant in custody for breach of condition of bail and to pass appropriate consequential order.

JUDGE

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