

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

CRIMINAL APPLICATION (BA) NO.1151 OF 2021

(Haridas Devidas Bhagat Vs. State of Maharashtra thr. PSO PS Andhera, Dist.
Buldhana)

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

Court's or Judge's orders.

Mr. A. S. Dhore, Advocate for Applicant.
Mr. N. S. Rao, APP for Non-Applciant/State.

CORAM: ROHIT B. DEO, J.
DATE: 1st DECEMBER, 2021.

The applicant is seeking bail in connection with Crime 263/2021 registered with Police Station Andhera, District Buldhana for offences punishable under Sections 376 (2)(N), 366 and 506 of the Indian Penal Code.

2. The investigation is complete and the charge-sheet is filed.

3. The complainant is accusing the applicant of seducing her with false promise to marry.

4. It would not be appropriate to minutely evaluate the material on record, at this stage.

5. I have perused the material in the charge-sheet and it is apparent from the report dated 28.07.2021 that according to the complainant the sexual relationship is

established from 25.06.2021 to 26.07.2021 during which period the complainant cohabited with the applicant *inter alia* at Pune.

6. The applicant is major and she and the applicant reside in the same village. According to the learned counsel for the applicant Mr. Anup Dhore, the applicant is a married man with a 3½ year old son. It is submitted that the complainant was well aware of the fact that the applicant was already married, and therefore, her version that she consented to sexual relationship under the impression that the applicant would marry her, must be taken with a pinch of salt. This is an alternate submission and the basic submission is that there was no sexual relationship as such.

7. Whether there was sexual relationship, and if yes, whether the consent is vitiated, can only be decided by the trial court on the basis of the evidence on record. At this stage, I do not see any propriety in continuing the incarceration, particularly since it is not even the case of the prosecution that the applicant has criminal antecedents or that he would not be available to face the trial.

8. The application is allowed.

9. The applicant shall be released on bail on executing personal bond of Rs.16,000/- (Rupees Sixteen Thousand) with a solvent surety of the like amount.

10. The applicant shall not make any attempt to tamper with the evidence or to influence witnesses, directly or indirectly.

11. The applicant shall not leave the country without the permission of the jurisdictional court.

JUDGE

NSN