

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

CRIMINAL APPLICATION (BA) NO. 1201 OF 2021

(Suresh Namdev Umale ..vs.. State of Maharashtra, through PSO, PS Janefal, Buldhana)

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

Court's or Judge's orders

Mr. S.V. Sirpurkar, Counsel for the applicant,
Mr. N.S. Rao, Addl.P.P. for the non-applicant/State.

CORAM : ROHIT B. DEO, J.

DATED : 30-11-2021

The applicant is seeking bail in connection with Crime 208/2021 registered with Janefal Police Station, District Buldhana for offences punishable under Sections 376, 376(2)(n), 313 and 506 of the Indian Penal Code.

2. The informant is Mrs. "S". She lodged report dated 08-6-2021. The gist of which is that she was induced into sexual relationship on false promise of marriage.

3. The investigation is complete and the charge-sheet is filed. I have perused the contents of the first information report and the statements recorded particularly under Section 164 of the Criminal Procedure Code (Code).

4. I am consciously refraining from minutely evaluating the statement of the informant Mrs. "S" recorded under Section 164 of the Code. It is sufficient

to note, that *prima facie* the relationship appears to be consensual and it would be unsafe to arrive at even a *prima facie* finding that the consent is vitiated due to mistake of fact within the meaning of Section 90 of the Indian Penal Code.

5. It would of course for the trial Court to take a final call on the basis of evidence adduced. Even according to the prosecutrix, as is discernible from the statement under Section 164 of the Code, she was aware that the applicant was a married man with three children. The prosecutrix Mrs. "S" is herself is a married woman although she is an estranged wife. It is not her case that the marriage is dissolved. This, coupled with the other material on record, to which I am not consciously referring, impels me to take a *prima facie* view that the applicant has an arguable defence. A case for grant of bail is made out.

6. The application is allowed.

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

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

9. The applicant shall attend each date of hearing scrupulously.

10. The applicant shall not leave the country without the permission of the trial Court.

JUDGE

adgokar