

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

CRIMINAL APPLICATION (ABA) NO. 30 OF 2022

Sagar S/o Babarao Mohadure

Versus

State of Maharashtra, through P.S.O., P.S. Jaripatka, Nagpur

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri M.V. Rai, Advocate for the applicant.

Shri V.A. Thakare, A.P.P. for the Non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 17th FEBRUARY, 2022

1. This is an application filed under Section 438 of the Code of Criminal Procedure for grant of pre-arrest bail in Crime No.833 of 2021 dated 16.12.2021 registered with Police Station Jaripatka, District Nagpur for the offence punishable under Sections 376(1), 376(2)(f)(n) and 506 of the Indian Penal Code against the applicant on a complaint lodged by one Ku. Apeksha Shrikrushna Gotmare.

2. It is the case of the prosecution that the complainant lodged a report stating therein that the applicant has established sexual relation with the victim girl on a false promise of marriage.

3. I have heard Shri M.V. Rai, learned counsel for the applicant and Shri V.A. Thakare, learned A.P.P. for the non-applicant/State.

4. Shri Rai, learned counsel for the applicant submits that the applicant is a Police Constable. It is submitted that even taking allegation made in the F.I.R. on the face of it, it may be seen that there was consensual physical relation between applicant and the complainant. It is submitted that the age of the complainant is 27 years and she is a divorcee. It is further submitted that, in view of the fact that there was consensual physical relation. This Court may grant anticipatory bail to the applicant.

5. On the other hand, Shri Thakare, learned A.P.P. strongly opposes the application and states that the offence is serious and police have collected sufficient material against the applicant during investigation to show the involvement of the applicant.

6. After perusal of the First Information Report and also the case diary, it is clear that the allegations are of establishing sexual relation by the applicant with the complainant on a promise of marriage and subsequently non-fulfillment of such promise. *Prima facie* the

allegations show that there was consensual physical relation between the applicant and the complainant.

7. The applicant is a police constable and he is in government service therefore, there is no possibility he would abscond. In view of the above referred observations, I am of the opinion that this is a fit case of grant of pre-arrest bail. Accordingly, I pass the following order:

- a) The criminal application is allowed.
- b) In the event of arrest of the applicant, in Crime No.833 of 2021 dated 16.12.2021 registered with the Police Station Jaripatka, District Nagpur for the offence punishable Sections 376(1), 376(2)(f)(n) and 506 of the Indian Penal Code, the applicant shall be released on bail on furnishing P.R. Bond of Rs.15,000/- (Rs. Fifteen Thousand Only) with one solvent surety in the like amount.
- c) The applicant shall attend the Police Station as and when his presence is required.

[ANIL S. KILOR, J.]