

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

CRIMINAL APPLICATION (BA) NO. 98/2022

Harish Uttamrao Kindarle ...Versus... State of Maharashtra and anr

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

Court's or Judge's orders

Mr. M.V. Rai, Advocate for the applicant
Mr. A.R.Chutke, APP for respondent/State.

CORAM : AVINASH G. GHAROTE, J.

DATE : 18/02/2022

1] Heard Mr. Rai, learned counsel for the applicant and Mr. Chutke, learned APP for State.

2] The applicant is arrayed for offence under Sections 376(2)(n) and 506 of the IPC. The applicant has been arrested on 13.9.2021, the charge-sheet has filled on 29.10.2021.

3] Mr. Rai, learned counsel for the applicant submits that the prosecutrix is a lady aged about 35 years, having two daughters and was having an affair with the applicant, which is indicated from the fact that the complaint was lodged on 13.9.2021 on which date the prosecutrix had delivered a female child at Kasturba Hospital, Sewagram. He therefore submits that this is a case of consensual sexual intercourse. Since the charge-sheet has been filed, no further investigation is necessary and the applicant needs to be released on bail.

4] Learned APP opposes the application and submits that the applicant has committed a heinous crime and the application needs to be rejected.

5] The age of the victim being 35 years is not a disputed position. It is also not disputed that no complaint whatsoever was lodged till 13.9.2021 when the victim gave birth to the female child at Kasturba Hospital, Sewagram. This in itself would indicate a consensual relationship. Since the charge-sheet has already been filed on 29.10.2021, I do not see any reason for further incarceration of the applicant. Hence the following order.

6] The application is allowed.

The applicant be released on bail for the offence punishable under Sections 376(2)(n) & 506 of the IPC on executing PR bond in the sum of Rs. 50,000/- with one solvent surety in the like amount.

The applicant shall not tamper with the prosecution evidence or try to influence the witnesses.

The applicant shall also not contact the victim in any manner whatsoever.

The violation of these conditions shall lead to cancellation of bail.

JUDGE

Rvjalit

Digitally sign by RAJESH
VASANTRAO JALIT
Location:
Signing Date: 18.02.2022 15:01