

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

Criminal Application (ABA) No.172/2022

Mohammad Aarif s/o Mohammad Ashfaq V State of Maharashtra thr PSO PS Digras,
Yavatmal and another

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

Court's or Judge's Orders

Shri M. Hussain, Advocate for applicant.
Shri V.A. Thakare, APP for State.
Ms Sonali Saware, Advocate for non-applicant no.2.

CORAM : ANIL S. KILOR, J.
DATE : 10-06-2022

The applicant has approached to this Court by filing the present application under Section 438 of the Code of Criminal Procedure for grant of anticipatory bail in connection with Crime No.0093/20022 dated 31-01-2022 registered with Police Station Digras, District Yavatmal for the offences punishable under Sections 376, 323, 504 and 506 of the Indian Penal Code.

2. It is the case of the prosecution that the applicant forcibly committed rape and thereafter threatened the victim that he will make the obscene photos of her viral. The learned

Counsel for the applicant submits that even if the allegations made in the First Information Report (FIR) are considered on its face value, the story narrated by the victim seems to be improbable and the allegations show that there was consensual relations between the applicant and the victim. The learned Counsel for the applicant pointed out that earlier also similar allegations were made by the victim against one Aniket Dilip Kesgir and the FIR was lodged on 30-07-2017. He, therefore, submits that in this case the applicant has been falsely implicated. He further submits that the custody of the applicant is not required. Accordingly, he prays for grant of pre-arrest bail.

3. The learned APP strongly opposed the application and points out that in the complaint the victim has alleged that the applicant has given threats to her. He, accordingly, submits that if the applicant is released on bail he may pressurize the victim.

4. Ms Sonali Saware, learned Counsel for the victim, reiterates the submissions of the learned APP and prays for

rejection of the present application.

5. I have perused the case diary and also the contents of the FIR.

On perusal of the FIR and considering the story narrated by the victim, prima facie, I am of the opinion that there was consensual relations. As far as the threats are concerned, after registration of FIR, there is no complaint about the threats. Moreover, if certain conditions are imposed the care can be taken of the apprehension expressed by the learned APP. Furthermore, there is nothing to show that the applicant will not be available for trial.

6. In that view of the matter, I pass the following order.

Order

- i) The application is allowed.
- ii) The order granting ad-interim anticipatory bail dated 25-03-2022 is confirmed.
- iii) The applicant shall not enter into the vicinity of Arni till the trial is over.

iv) The applicant shall attend the Police Station on every Friday and Saturday between 10.00 am to 12.00 noon till the filing of chargesheet.

(Anil S. Kilor, J.)