

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

CRIMINAL APPLICATION (BA) NO.384 OF 2022

(SUSHIL PRAKASH FULZELE....VS.. STATE OF MAH. THR. PSO PS JARIPATKA, NAGPUR CITY & ANR.)

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

Court's or Judge's orders

Shri C.B.Barve, Advocate for Applicant.
Ms Shamsi Haider, A.P.P. for Non-applicant No.1/State.
Shri Ashwin Wasnik, Advocate for Non-applicant No.2.

CORAM : ANIL S. KILOR, J.
DATED : JUNE 15, 2022.

1. Heard.
2. This is an application under Section 439 of the Code of Criminal Procedure for grant of regular bail in connection with Crime No.783 of 2021, registered with Police Station, Jaripatka, Nagpur for the offences punishable under Sections 376(1), 376(2)(f) and 354-A of the Indian Penal Code.
3. The learned counsel for the applicant submits that after completion of investigation charge-sheet has been filed and further custody of the applicant is not necessary.
4. He further submits that because the applicant refused to marry the victim, she lodged the instant complaint.

5. He further submits that there were consensual physical relations between the applicant and the complainant.

6. The learned counsel further argues that the applicant has been falsely implicated in the alleged offence and accordingly he prays for grant of bail.

7. The learned A.P.P. strongly opposed the application and submits that earlier bail application was withdrawn by the applicant and as such in absence of any change in the circumstances this bail application is not maintainable.

8. In reply, the learned counsel for the applicant submits that at the relevant time charge-sheet was not filed and therefore, the application was withdrawn. However, after withdrawal of the said application charge-sheet has been filed and as such there is change in circumstances and accordingly the present application is maintainable.

9. The learned A.P.P. submits that there is sufficient material to show the involvement of the applicant in the alleged offence and therefore, she prays for rejection of the application.

10. In this case, after completion of the investigation charge-sheet has been filed. The applicant is

in jail since about 8 months. Considering the allegations made in the F.I.R., I am of the opinion that further custody of the applicant is not necessary. Moreover, there is nothing to point out that if the bail is granted to the applicant the applicant would pressurize the prosecution witnesses or tamper with the prosecution evidence or he will not be available for trial.

11. In that view of the matter, I am of the opinion that the applicant is entitled for grant of bail. Accordingly, I pass the following order:

- i) The application is allowed.
- ii) It is directed that the applicant shall be released on bail in connection with Crime No.783/2021, registered with Police Station, Jaripatka, Nagpur City for the offences punishable under Sections 376(1), 376(2)(f) and 354-A of the Indian Penal Code on furnishing P.R. Bond in the sum of Rupees Twenty Five Thousand with one solvent surety in the like amount.
- iii) The applicant shall not pressurize the prosecution witnesses or tamper with the prosecution evidence

- iv) The applicant shall not enter the vicinity of Chimur tahsil of Chandrapur district, till completion of the trial.
- v) The applicant shall attend the trial before the Sessions Court regularly on every date unless granted exemption by the Sessions Court.

The Criminal Application is **disposed of** accordingly.

JUDGE

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