

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

CRIMINAL APPLICATION (ABA) NO.291 OF 2022

Pankaj Bandu Solenke

Versus

State of Maharashtra, through P.S.O., P.S. Khadan, Akola, Tq. & Dist. Akola and
another

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

Court's or Judge's Order

Shri A.C. Dharmadhikari, Advocate for the applicant.

Ms Shamsi Haider, A.P.P. for the non-applicant No.1/State.

Shri C.A. Joshi, Advocate for the non-applicant No.2.

CORAM : ANIL S. KILOR, J.

DATED : 17/06/2022

1. The applicant is seeking pre-arrest bail in Crime No.302 of 2022, dated 04.04.2022, registered with Police Station Khadan, District: Akola, for the offences punishable under Sections 376, 376 (2)(n), 323, 504 and 506 of the Indian Penal Code.

2. Shri Dharmadhikari, learned counsel for the applicant submits even if the allegations made in the First Information Report (FIR) are taken on its face value, it can be seen that there was consensual relations and the FIR was lodged only because of refusal by the applicant to marry complainant. It is submitted that there was a delay in lodging the FIR and no explanation has been offered by the complainant.

3. He further submits that as directed by this Court the applicant attended the concerned Police Station and there is no complaint about misuse of liberty by the applicant during the period when he was on *ad-interim* anticipatory bail.

4. On the other hand, Ms Shamsi Haider, learned APP strongly opposes the present application and submits that the applicant is a constable and it is not expected such conduct from the person like the applicant. She therefore, submits that some deterrence is necessary and accordingly, she prays for rejection of the present application.

5. Shri Joshi, learned counsel for the non-applicant No.2/victim reiterates the submissions of the learned APP and prays for rejection of the application.

6. I have perused the FIR.

7. From the allegations made in the FIR, *prima facie* it appears that there was consensual relations between the applicant and the complainant.

8. There is a delay in the lodging the FIR. *Prima facie* it appears that the applicant refused to marry the complainant and therefore, the complaint came to be lodged. The applicant has attended the concerned Police

Station as directed by this Court while granting *ad-interim* anticipatory bail and there is no complaint of misuse of liberty by the applicant.

9. Looking to the allegations and the consensual relations between the applicant and the complainant, I am of the opinion that the custodial interrogation is not necessary in this case.

10. Moreover, the applicant is in Government Service and thus, there is no possibility of absconding and not available for the trial. In the circumstances, I pass the following order:

- a) The criminal application is **allowed**.
- b) Order passed by this Court on 27.04.2022, granting *ad-interim* anticipatory bail, is confirmed with modification that the applicant shall attend the concerned Police Station as and when his presence is required.
- c) The applicant shall not tamper with the prosecution witnesses.

- d) The applicant shall not leave the jurisdiction of the concerned Police station without permission of the Court.

The criminal application is **disposed of**, accordingly.

[ANIL S. KILOR, J.]