

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

CRIMINAL APPLICATION (ABA) NO.328 OF 2022

(ANKUSH ASHOK SHAHU....VS.. STATE OF MAH. THR. PSO PS YASHODHARA NAGAR, NAGPUR
& ANR.)

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

Court's or Judge's orders

Shri J.B.Gandhi, Advocate for Applicant.
Shri T.A.Mirza, A.P.P. for Non-applicant No.1/State.
Ms Aarti Singh, Advocate (Appointed) for Non-applicant No.2.

CORAM : ANIL S. KILOR, J.
DATED : JUNE 14, 2022.

1. Heard.
2. This is an application under Section 438 of the Code of Criminal Procedure for grant of pre-arrest bail in connection with Crime No.273 of 2022, registered with Police Station, Yashodhara Nagar, Nagpur for the offences punishable under Sections 376(2)(n) of the Indian Penal Code.
3. The learned counsel for the applicant submits that even if the contents of the First Information Report (F.I.R.) are taken on its face value, it can be seen that there was consensual physical relations between the applicant and the complainant. He, therefore, submits that in this case custodial interrogation is not necessary. He further submits that the applicant has been falsely implicated in the said offence.

4. On the other hand, the learned A.P.P. opposes the present application.

5. The learned counsel for the non-applicant No.2 (Complainant) submits that under the pretext of marriage the consent was given, however, subsequently the applicant refused to marry the complainant. Accordingly, she prays for rejection of this application.

6. On perusal of the case diary and reading the contents regarding allegations made in the F.I.R., *prima-facie*, I am of the opinion that there were consensual physical relations between the duo.

7. In the circumstances, I am of the opinion, that the custodial interrogation of the applicant is not necessary in this case. Moreover, there is nothing to show that the applicant would pressurize the prosecution witnesses or tamper the prosecution evidence or he will not be available for trial, if the bail is granted.

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

- i) The application is allowed.

- ii) Order dated 17/05/2022, granting ad-interim anticipatory bail to the applicant, is confirmed.
- iii) The applicant shall attend the concerned Police Station as and when his presence is required.

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

Fees of Ms Aarti Singh, learned counsel appointed to represent the non-applicant No.2, be paid as per the Rules.

JUDGE

RRaut..