

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

CRIMINAL APPLICATION (ABA) NO.344 OF 2022

Shakti Dipak Budhner

Versus

State of Maharashtra, through P.S.O., P.S. Risod, Dist. Washim

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

Court's or Judge's Order

Shri S.M. Bhangde, Advocate for the applicant.

Shri T.A. Mirza, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 18/08/2022

1. The applicant is seeking pre-arrest bail in Crime No.789 of 2021, dated 18.11.2021, registered with Police Station Risod, District: Washim, for the offences punishable under Sections 376, 392, 504 and 506 of the Indian Penal Code.

2. Shri Bhangde, learned counsel for the applicant submits that the applicant is serving in Army and is presently posted at Jammu. It is submitted that even if the allegations are taken on its face value it can be seen that there was consensual physical relations and to falsely implicated the applicant, the said First Information Report (FIR) came to be lodged.

3. He further submits that the applicant is in Army and he will be available for the trial. It is submitted that considering the allegations made in the FIR, his custody is not necessary. Accordingly, he prays for grant of pre-arrest bail.

4. On the other hand, Shri Mirza, learned APP strongly opposes the present application and submits that the offence is serious.

5. None for the non-applicant No.2, though served.

6. I have perused the Case Diary and the FIR.

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

8. The applicant is serving in Army and hence, there is no possibility that he will not be available for the trial. Furthermore, considering the allegations made in the FIR, I am of the opinion that custodial interrogation of the applicant is not necessary. Accordingly, I pass the following order:

a) The criminal application is **allowed**.

- b) Order passed by this Court on 19.05.2022, 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) It is further made clear that police shall issue 72 hours prior notice to the applicant, whenever his presence is required.
- d) The applicant shall not tamper with the prosecution witnesses.

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

[ANIL S. KILOR, J.]