

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

CRIMINAL APPLICATION (BA) NO.493 OF 2022

(SUDHIR MAHADEORAO NITANAWARE....VS.. STATE OF MAH. THR. PSO PS ASEGAON PURNA,
DIST. AMRAVATI.)

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

Court's or Judge's orders

Shri P.V.Navlani, Advocate for Applicant.
Ms Shamsi Haider, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : JUNE 09, 2022.

1. Heard.
2. The applicant is seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.20 of 2022, registered with Police Station, Asegaon Purna, District : Amravati (Rural) for the offence punishable under Sections 376(2)(n) and 450 of the Indian Penal Code.
3. It is the case of the prosecution that the applicant on a false promise of marriage had established sexual relations with the complainant who is a married woman and later on refused to marry her.
4. The learned counsel for the applicant submits that even if the allegations made in the FIR are taken on its face value, it can be said that there was consensual sexual relations between the applicant and the

complainant. It is pointed out that the complainant is 40 years' old lady and she is married. He further submits that the applicant has been falsely implicated in the alleged offence. The learned counsel for the applicant lastly submits that the applicant is in jail since January 2022 and no further custody of the applicant is necessary. He further submits that after completion of investigation charge sheet has also been filed.

5. On the other hand, the learned A.P.P. opposes the application and submits that ample material is collected by the Investigating Officer, which shows involvement of the applicant. Accordingly, she prays for rejection of the application.

6. I have perused the contents of the FIR and also the charge-sheet. From the FIR it is clear that the complainant is 40 years old lady and she is married. It can be seen that even if the allegations are taken as true, *prima-facie*, there were consensual sexual relations of the complainant with the applicant. Furthermore, as the charge-sheet has already been filed no further custody of the applicant is necessary, I pass the following order:

ORDER

- i) The application is allowed.

- ii) It is directed that the applicant shall be released on bail in connection with Crime No.20 of 2022, registered with Police Station, Asegaon Purna, District : Amravati (Rural) 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 tamper with the prosecution evidence.

The Criminal Application is **disposed of** in the above terms.

JUDGE

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