

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

CRIMINAL APPLICATION (ABA) NO.472 OF 2022

Karan Tulshiram Rathod

Versus

State of Maharashtra, through P.S.O., P.S. Pusad, Dist. Yavatmal

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

Court's or Judge's Order

Shri P.S. Chawhan, Advocate for the applicant.

Shri N.R. Rode, A.P.P. for the non-applicant/State.

CORAM : ANIL S. KILOR, J.

DATED : 08/07/2022

1. The applicant is seeking pre-arrest bail in Crime No.168 of 2022, dated 26.04.2022, registered with Police Station Pusad (Rural), District: Yavatmal, for the offences punishable under Sections 376(2)(n) and 506 of the Indian Penal Code.

2. Shri Chawhan, learned counsel for the applicant submits that there was a love affair between the applicant and the complainant and when this fact was revealed by the parents of the complainant, the present First Information Report (FIR) came to be lodged, falsely implicating the applicant.

3. He further submits that even if the allegations made in the FIR, are taken on its face value, it can be seen that there was consensual physical relation between the applicant and the complainant. Thus, he submits that

custodial interrogation of the applicant is not necessary, in this case. Accordingly, he prays for grant of pre-arrest bail.

4. On the other hand, Shri N.R. Rode, learned APP strongly opposes the present application and submits that custodial interrogation of the applicant is necessary to recover mobile phone from which he has made photo of the applicant and the complainant viral. Accordingly, he prays for rejection of the present application.

5. I have perused the Case Diary, FIR and reply of the State.

6. From the Case Diary and allegations made in the FIR, *prima facie* it appears that there was love relation between the applicant and the complainant and there was consensual physical relation as well. Considering the said fact, I am of the opinion that the purpose would be served if the applicant surrenders his mobile phone to the Investigation Officer for the purposes of investigation.

7. Shri Chawhan, learned counsel for the applicant, on instruction, makes a statement that the applicant undertakes to surrender his mobile phone to the Investigation Officer to cooperate the Investigation Officer in investigation. In the circumstances, I pass the following order:

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

- b) It is directed that in the event of arrest of the applicant in Crime No.168 of 2022, dated 26.04.2022, registered with Police Station Pusad (Rural), District: Yavatmal, for the offences punishable under Sections 376(2)(n) and 506 of the Indian Penal Code, the applicant shall be released on bail on furnishing P.R. Bond of Rs.15,000/- with one solvent surety in the like amount.
- c) The applicant shall attend the concerned Police Station on 11th, 12th and 13th July, 2022 between 10.00 a.m. to 12.00 noon. The Police shall consider it as a deemed custody for recovery of mobile phone from the applicant.
- d) The applicant shall not tamper with the prosecution witnesses.
- e) 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.]