

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

CRIMINAL APPLICATION (ABA) NO.568 OF 2022

(DR. NAGENDRA PRASAD RAMAYANPRASAD PATEL...VS.. STATE OF MAH. THR. PSO PS AJNI,
NAGPUR)

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

Court's or Judge's orders

Shri S.D. Zoting, Advocate for Applicant.
Shri T.A. Mirza, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : AUGUST 22, 2022.

1. Heard.
2. By this application under Section 438 of the Code of Criminal Procedure the applicant is seeking pre-arrest bail in Crime No.390 of 2022, registered with Police Station, Ajni, Nagpur for the offences punishable under Sections 376(2)(n), 506 and 417 of the Indian Penal Code.
3. The learned counsel for the applicant submits that even if the allegations made in the First Information Report (FIR) takes on its face value, it can be seen that there was consensual relations. It is submitted that the alleged first incidence is dated 04.04.2015, whereas, the complaint was lodged on 16.06.2022, i.e. after seven years. He therefore, submits that there is a delay in lodging the FIR. He further submits that considering the

allegations made in the FIR, custodial interrogation of the applicant is not necessary in this case.

4. On the other hand, learned A.P.P. strongly opposed the application and he prays for rejection of the same.

5. I have perused the case diary and also the FIR.

6. In the FIR, it is alleged that first time on 04.04.2015 the applicant established physical relation with the complainant whereas, the complaint was lodged on 16.06.2022 i.e. after more than seven years.

7. It can further be seen that the complainant is 41 years old whereas, the applicant is 35 years old. In the said backdrop if the allegations made in the FIR are taken on its face value, *prima facie*, it can be said that there was consensual relations.

8. Considering the above referred backdrop, I am of the opinion that custodial interrogation of the applicant is not necessary, accordingly I pass the following order :

- i) The application is allowed.
- ii) The order dated 1st August, 2022 granting *ad-interim* anticipatory bail to the applicant is hereby confirmed.

- iii) The applicant shall attend the concerned Police Station as and when his presence is required.
- iv) The applicant shall not tamper with the prosecution evidence and shall not influence the prosecution witnesses.
- v) The State is at liberty to apply for cancellation of bail in case of breach of any of the conditions.

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

Pending application(s), if any, shall stand disposed of.

JUDGE

Kirtak.