

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

CRIMINAL APPLICATION (BA) NO.1240 OF 2021

(SWAPNIL GANGADHAR GAIDHANE...VS.. STATE OF MAH. THR. PSO PS BELA, DIST.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.W.Sambre, Advocate for Applicant.
Shri A.M.Deshpande, A.P.P. for Non-applicant/State.

CORAM : ANIL S. KILOR, J.
DATED : JUNE 17, 2022.

1. Heard learned counsel for the applicant and learned A.P.P. for the non-applicant/State. None for the victim (complainant), though served.

2. This is an application under Section 439 of the Code of Criminal Procedure for grant of regular bail in connection with Crime No.109 of 2021, registered with Police Station, Bela, District: Nagpur (Rural) for the offences punishable under Sections 376(2)(n) and 506 of the Indian Penal Code.

3. The learned counsel for the applicant submits that even if the allegations made in the F.I.R. are taken on its face value it can be seen that there were consensual physical relations between the applicant and the complainant. He, therefore, submits that he has been falsely implicated in the alleged offence. It is submitted that the applicant is in jail since 17/07/2021 for about one year and no further custody of the applicant is required.

4. The learned A.P.P. opposed the application and submits that there is sufficient material available on record to show the involvement of the applicant. Accordingly, she prays for rejection of this application.

5. I have perused the F.I.R. and the reply filed by the State.

6. From the allegations made in the F.I.R. *prima-facie* it appears that there were consensual physical relations between the applicant and the complainant. The applicant is in jail from last about one year and as such I am of the opinion that the custody of the applicant is not necessary. Moreover, there is nothing to show that the applicant would pressurize the prosecution witnesses or tamper with the prosecution evidence or he will not be available for trial. Hence, I pass the following order:

- i) The application is allowed.
- ii) It is directed that the applicant shall be released on bail in connection with Crime No.109 of 2021, registered with Police Station, Bela, District: Nagpur (Rural) for the offences punishable under Sections 376(2)(n) and 506 of the Indian Penal Code 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 pressurize the prosecution witnesses or tamper with the prosecution evidence.
- iv) The applicant shall attend the Police Station on First and Sixteenth day of every month till completion of the trial.
- v) The applicant shall attend the trial before the Sessions Court regularly on every date unless exemption is granted by the Sessions Court.

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

JUDGE

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