

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO.701 OF 2022

Amit s/o Madan Rangari Vs. State of Maharashtra

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

Court's or Judge's orders.

Shri M.N. Ali, Advocate for applicant.
Shri S.D. Sirpurkar, APP for non-applicant/State.

CORAM : G.A. SANAP, J.

DATE : NOVEMBER 14, 2022.

The applicant apprehends his arrest in Crime No.89/2022 registered with Police Station, Dighori, Tah. Lakhandur, District Bhandara for the offences punishable under Sections 498A, 313, 109, 201 read with Section 34 of the Indian Penal Code and he has therefore approached this Court.

2. On 04.10.2022, this Court on going through the record and proceedings has granted ad-interim protection to the applicant from arrest.

3. It is the case of the applicant that he has not played any role in the crime. The husband of the informant is working at his hardware shop. The husband of the informant used his car and therefore on that basis he has been arrayed as an accused in this crime. No specific role in the commission of the crime of miscarriage of the child has been attributed to him. His

arrest is not necessary for the purpose of investigation or interrogation. The investigation is almost over. His blood sample or DNA sample has not been collected. He has obeyed the conditions imposed by this Court at the time of granting ad-interim protection. It is the case of the applicant that he has been falsely implicated in this crime.

4. Learned APP submitted that DNA report of the sample of the fetus has not yet received. Learned APP however admits that blood sample of this applicant was not collected for DNA analysis. Learned APP submits that considering the serious nature of the crime, the applicant cannot be granted protection from the arrest. The protection from arrest may lead to destruction of the valuable evidence. It is submitted that possibility of tampering with the prosecution evidence and/or threat to the prosecution witnesses at the behest of the applicant cannot be ruled out.

5. Learned advocate for the applicant has taken me through the record and proceedings and particularly the FIR. Perusal of the FIR would show that in the main crime no specific role has been attributed to the applicant. It is alleged in the FIR that in-laws of the informant had doubt about paternity of the conceived child and therefore the informant was subjected to ill treatment and torture. It is further stated that on account of this doubt entertained by the in-laws of the

informant and other relatives the miscarriage was intentionally done. The role attributed to the applicant as can be seen from the FIR is that the husband of the informant Nikhil is working at the hardware shop of the applicant. The applicant is relative of the husband of the informant. It is stated that on the suggestion of the applicant the miscarriage was done.

6. In my view, considering this role attributed to the applicant for the purpose of investigation or interrogation, the detention of the applicant is not necessary. It is further seen that there is no doubt raised in the reply about attributing the paternity of the child to this applicant. This is more so because during the course of the investigation his DNA sample is not collected. Perusal of the case dairy would indicate that the investigation is almost over. The DNA report is awaited. In the facts and circumstances, I am of the view that the applicant has made out a case for granting protection from arrest. The apprehension placed on record by the prosecution, in the facts situation, can be taken care of by imposing appropriate conditions. Hence, I pass the following order:

ORDER

- i. The application is allowed.
- ii. Ad-interim anticipatory bail granted on 04.10.2022 stands confirmed on same terms and conditions.

- iii. The applicant shall attend the concerned Police Station on every Monday and Saturday between 7.00 p.m. and 9.00 p.m. till filing of the charge-sheet.
- iv. The applicant shall not, in any manner, tamper with the prosecution evidence and threaten the prosecution witnesses.

JUDGE

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