

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

CRIMINAL APPLICATION (BA) NO. 44 OF 2023

Kamlesh Balkrushna Ninawe

..VS..

State of Maharashtra through PSO, PS Yashodhara Nagar, 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.M. Bhangde, Advocate for Applicant.
Shri M.J. Khan, A.P.P. for Non-applicant/State.

CORAM : ANIL L. PANSARE, J.

DATED : MARCH 30, 2023.

1. Heard learned counsel for both the sides.
2. This is an application under Section 439 of the Code of Criminal Procedure, 1973 (in short "the Code"). The applicant have been arrested on 25.11.2022 in Crime No. 610/2022 registered with Police Station Yashodhara Nagar, Nagpur for the offence punishable under Sections 376(2)(n) and 417 of the Indian Penal Code.
3. Having heard both the sides and having perused the material placed on record, it appears from the statement of the victim that she and applicant were knowing each other since the year 2013. In the year 2017, the applicant proposed her for marriage. The applicant used to visit the victim's house in the presence of her parents and used to reside in the house for 10 to 15 days. The parents used to treat the applicant as son-

in-law, so much so that, they have extended financial help to the applicant to the tune of Rs.8,57,000/-. In addition, one gold finger ring and golden chain also given to the applicant. However, since the July 2022 the applicant started avoiding the victim and that therefore she lodged report.

4. Though the learned A.P.P. submits that the applicant had no intention to get married, the victim's so also her mother's statements indicates that for some unknown reasons the applicant has not honoured the promise. Otherwise the case is of consensual physical relationship.

5. The charge-sheet has been filed. The charges have not yet been framed. It will take time to commence and conclude the trial. When inquired of antecedents, learned counsel for the applicant submits that there are no criminal antecedents. The applicant is residing at the given address since long.

6. In view of above and considering the peculiar facts of the case and the nature of evidence against the applicant so also the presumption that the person accused of a crime is considered to be innocent until proven guilty, I am of the considered view that no fruitful purpose will be served by keeping the applicant in jail. The interest of the prosecution can be protected by putting the applicant to appropriate terms.

7. The observations made in this order are *prima facie* in nature and are made for deciding the present application only. The trial Court shall not get influenced by the observations made in this order.

8. Resultantly, following order is passed :

ORDER

(i) The Application is allowed.

(ii) The applicant- Kamlesh Balkrushna Ninawe, be released on bail, in Crime No. 610/2022 registered with Police Station Yashodhara Nagar, Nagpur for the offence punishable under Sections 376(2)(n) and 417 of the Indian Penal Code on he furnishing P.R. bond in the sum of Rs. 50,000/- (Rupees fifty thousand) with one or two sureties in the like amount.

(iii) The applicant shall, at the time of execution of bond, furnish his address and telephone/mobile number(s) to the Investigating officer and the Court concerned, and shall not change the mobile number(s) and the residence till the final disposal of the case.

(iv) The applicant shall not contact victim or her family members in any manner.

(v) The applicant shall regularly attend the court and cooperate the learned trial Court to complete the

trial for the above offences. The applicant shall not seek adjournments, except under extreme circumstances to the satisfaction of the trial Court.

(vi) The applicant shall not directly or indirectly make any inducement, threat or promise to any witness acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any Police Officer.

(vii) The applicant shall maintain law and order.

(viii) In case of breach of any condition, the learned trial Court is at liberty to cancel the bail after giving opportunity of hearing to both the sides.

The Application is disposed of in the above terms.

(ANIL L. PANSARE, J.)

Kirtak.