

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

CRIMINAL APPLICATION (ABA) NO.127 OF 2023

(Suraj Ashok Gawai Vs. The State of Maharashtra)

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

Court's or Judge's Order

Shri S.V. Sirpurkar, Advocate for the applicant.
Shri M.J. Khan, APP for the State.
Shri V.B. Rath, Advocate for Assist to Prosecutor.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- AUGUST 08, 2023.

Heard.

2. Present application is for grant of anticipatory bail in connection with Crime No.06/2023 registered at police station Bibi, District Buldhana for the offence punishable under Sections 376(1), 420, 504 and 506 of the Indian Penal Code.

3. The applicant is apprehending arrest at the hands of police as accusation is made against him on the basis of report lodged by the victim on an allegation that the engagement of the victim and the present applicant took place on 11th July, 2021. Prior to that there was love affair between them. Subsequently, that engagement was not acted upon and the applicant declining to perform the marriage with the victim. It is further alleged that during their acquaintance with each other they were meeting with each other and present applicant subjected her for sexual assault on various places by taking her at various places.

4. As per the contention of the present applicant this false and baseless allegations are levelled against him. In fact, there was love affair between them. Thereafter they have decided to perform the marriage. However, due to some reasons the marriage was not performed. As present applicant has declined to marry, this false allegations are made against him. Present applicant is serving in Army and presently posted at Pokhran. His custodial interrogation is not required. His motorcycle which is alleged to be used in commission of crime is already seized by the Police.

5. Considering the same, initially the applicant was protected by granting ad-interim protection, it may be confirmed.

6. Said application is strongly opposed by the State on the ground that the offence is of serious nature. The custodial interrogation of the present applicant is required. If the applicant is released on anticipatory bail he will tamper with the prosecution evidence and will hamper the investigation. Therefore, prays for rejection of the application.

7. Learned Counsel Shri Rathi for the victim strongly opposed the application on the ground that if applicant is released on bail he will threaten the victim. He has already made an attempt and NC report is lodged about the same. He has filed the affidavit of the victim to that extent and strongly opposed the application.

8. Having heard both the sides and on perusal of the FIR it reveals that there was love affair between the victim and the present applicant. The victim is grown-up woman. It appears from the recitals of the FIR that there was consensual relationship between them. As far as the investigation part is concerned, the reply filed by the State shows that the Investigating Officer has already seized the clothes of the victim and send for the medical examination. The motorcycle of the present applicant is also seized. The physical custody of the present applicant is not required. Medical examination of the applicant is also carried out and his clothes are also seized. Thus, most of the investigation for which the custodial interrogation of the present applicant is required is already completed.

9. Considering the fact that NC report is lodged against the present applicant, his application for grant of anticipatory bail deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order:

(i) The interim protection granted by this Court vide order dated 23/02/2023 is hereby confirmed.

(ii) In the event of arrest, the applicant - Suraj Ashok Gawai in connection with Crime No.06/2023 registered at police station Bibi, District Buldhana for the offence punishable

under Sections 376(1), 420, 504 and 506 of the Indian Penal Code, be released on anticipatory bail on execution of P.R. bond in the sum of Rs.25,000/- with one surety in the like amount.

(iii) The applicant shall attend the concerned Police Station as and when required for the investigation purpose.

(iv) The applicant shall not enter into the vicinity of village Chorpangra, Taluka Lonar, District Buldhana till conclusion of the trial.

(v) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case and shall not tamper the prosecution evidence.

10. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*