

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

CRIMINAL APPLICATION (ABA) NO.154 OF 2023
Siddharth Ramesh Sawale 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 P.V. Navlani, Advocate for applicant.
Shri S.M. Ghodeswar, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.
DATE : JULY 18, 2023.

The present application is for grant of anticipatory bail in connection with Crime No.133/2023 registered with Police Station, Badnera District Amravati for offences punishable under Sections 376(2)(n), 417 and 506 of the Indian Penal Code.

2. The accusation against the present applicant is that informant got acquainted with the present applicant and subsequently friendship was developed between them, which resulted into the love affair. The applicant has promised her for marriage and on the said promise of marriage, subjected her for sexual assault. Subsequently, he declined to marry with her. On the basis of said report, the police have registered the crime against the present applicant.

3. As per contention of the present applicant, the act of physical relationship was a consensual act, there was no promise for marriage. The victim is a grown up woman and

at her own she submitted herself and accepted the physical relationship. As far as the investigation is concerned, nothing is to be recovered from him and his physical custody is not required. He is already protected by ad interim protection and he has cooperated with the investigating agency.

4. The said application is strongly opposed by the State on the ground that the applicant has subjected the victim for sexual assault on the promise of marriage and subsequently declined to marry with her. *Prima facie*, case is made out against the present applicant. Hence, the application deserves to be rejected.

5. Learned counsel for the informant reiterated the contentions and opposed the application.

6. Heard learned counsel for the applicant. He invited my attention towards the recital of the FIR and submitted that as far as promise is concerned, even accepting contentions as it is, it is only mere breach of promise, and therefore, offence under Section 376 is not made out. Now the investigation is practically completed and physical custody is not required. Hence, the applicant be protected by confirming the ad interim protection.

7. Learned APP and learned counsel for the non-applicant no.2 raised objection and submitted that the custodial interrogation of the applicant is required.

8. Having heard both sides and on perusal of the investigation papers, the victim is a 30 years old grownup woman. From the recitals of the FIR it appears that there was a friendship between the applicant and the victim, which resulted into love affair. Out of love affair, there was a physical relationship between them. As far as the promise is concerned, it can be said that it is a breach of promise. Whether the consent was obtained under said promise or not, is a matter of evidence. At this stage, the custodial interrogation of the applicant is not required considering the allegations against the present applicant. In view of that, he was protected by granting ad interim protection. He has cooperated with the investigating agency and not misused the liberty granted to him. In view of that, the ad interim anticipatory bail granted in favour of the applicant deserves to be confirmed. Hence, I pass the following order:

ORDER

- i. The application is allowed.
- ii. The ad interim protection granted to the present applicant in connection with Crime No.133/2023 registered with Police Station, Badnera District Amravati for offences punishable under Sections 376(2)(n), 417 and 506 of the Indian Penal Code is hereby confirmed on he furnishing PR bond in the sum of ₹25,000/- with one surety in the like amount.

- iii. The applicant shall attend concerned Police Station, as and when required for the investigation purpose and shall cooperate in the investigation.
- iv. The applicant shall furnish his cell phone number and address with address proof.
- v. The applicant shall not induce threat or promise to any witnesses, who are connected with the alleged crime.

With this, the application is disposed of.

JUDGE

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