

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

CRIMINAL APPLICATION (ABA) NO.190 OF 2023
(Shashank s/o Baldevrao Mohod Vs. 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 R.M. Daga, Advocate for the applicant.
Shri S.M. Ghodeswar, APP for the State.
Shri B.A. Bhendarkar, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- AUGUST 08, 2023.

Heard.

2. Present application is for grant of anticipatory bail in connection with Crime No.149/2023 registered at police station Frezarpura, Amravati for the offence punishable under Sections 376(2)(n) 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 she is aged about 25 years, got acquainted with the present applicant through Facebook in the year 2020 and they became friends on Facebook. Thereafter the victim and the present applicant used to meet at various places. The applicant had proposed the victim for marriage and on the pretext of false marriage he has subjected her for sexual assault. It is further alleged that the victim got knowledge that the present applicant was already married

and thereafter she has approached to the police and lodged the report.

4. As per the contention of the present applicant that there was acquaintance between them through Facebook and the relationship was consensual one. Subsequently, as the said relationship come to an end, and therefore, this police report is lodged. Victim is a grown-up lady and she at her own accord joined the company of the present applicant. At the most, it is a breach of promise and no criminal offence is attracted.

5. Said application is strongly opposed by the State on the ground that the consent of the victim was obtained on misrepresentation. The custodial interrogation of the present applicant is required and hence bail application deserves to be rejected. Learned Counsel for the victim has also opposed the application and reiterated the same contentions and submitted that the consent of the victim is obtained by misrepresenting the facts, and therefore, the application deserves to be rejected.

6. Having heard learned Counsel for the applicant, learned Additional Public Prosecutor for the State and learned Counsel for the victim.

7. Perused the investigation papers. It reveals that as per the recitals of the FIR, victim and the present applicant got acquaintance through Facebook. Thereafter

they meet each other. From the recitals of the FIR, it reveals that the applicant has promised her for marriage and thereafter there was physical relationship between them. Whether the consent was obtained by misrepresentation and not, is a matter of evidence. At this stage, after going through the investigation papers, it reveals that the incriminating articles i.e. clothes of the victim, clothes of the accused, their communication is already seized by the police. Police have also recorded the relevant statements of the witnesses. Thus, investigation appears to be practically completed. The custody of the present applicant is not required.

8. In view of that, the interim protection granted to the present applicant deserves to be confirmed. Accordingly, I proceed to pass the following order:

(i) The application is allowed.

(ii) In the event of arrest, the applicant - Shashank s/o Baldevrao Mohod in connection with Crime No.149/2023 registered at police station Frezarpura, Amravati for the offence punishable under Sections 376(2)(n) 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 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.

(iv) The applicant shall furnish his Cell-phone number and address with the address proof before the Investigating Officer.

9. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*