



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

CRIMINAL APPLICATION (BA) NO.1011 OF 2023

(Pavan Santosh Wagh Vs. The State of Maharashtra and anr.)

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

Court's or Judge's Order

Mr. M.N. Ali, Advocate for the applicant.
Mr. V.A. Thakare, APP for the State.
Mr. G.B. Mate, Advocate (appointed) for R.No.2.

CORAM:- URMILA JOSHI-PHALKE, J.

DATED :- DECEMBER 18, 2023.

Heard.

2. By this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure in connection with Crime No.442/2023, registered with Police Station Vasantnagar, Pusad, District Yavatmal for the offence punishable under Sections 376(2)(n) and 506 of the Indian Penal Code.

3. The applicant is arrested on 04/10/2023. Since then he is behind bar.

4. Learned Counsel for the applicant submitted that the accusation against the present applicant is on the basis of report lodged by the victim who is a married lady. She has alleged that she got acquaintance with the present applicant prior to one year as the applicant was residing in her neighbourhood. Thereafter there was a communication between them on the cell phone. She further stated that after the communication, she started

liking him and in the month of January the applicant came to her house and subjected her for sexual assault. She further alleged that they have taken the photograph together and thereafter the applicant threatened her that he will show the said photographs to her husband and by threatening her subjected her for sexual assault. On the basis of said report, police have registered the crime against the present applicant.

5. Learned Counsel for the applicant submitted that the victim is a married lady, having two children. There was a consensual relationship between them from last seven to eight months. This false report is lodged against the present applicant after thought. Now, investigation is completed and charge-sheet is filed. Further custody of the present applicant is not required and prays for releasing him on bail.

6. Said application is strongly opposed by the State as well as learned Counsel for the victim on the ground that the applicant has obtained the photographs and threatened her by showing the photographs. Thus, he has blackmailed her and subjected her for sexual assault. If he is released on bail he will tamper with the prosecution evidence and prays for rejection of the application.

7. Having heard learned Counsel for the applicant. Learned Additional Public Prosecutor for the State and Learned Counsel for the informant. Perused the

investigation papers. From the recitals of the FIR, it is apparent that the relationship between the applicant and the informant was consensual in nature. As far as the allegations of threatening and obtaining the photographs are concerned, the mobile phones are already seized and forwarded for the analysis. The medical examination of the victim is carried out wherein no injuries are found on her person.

8. Considering the nature of the allegation and the investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required. In view of that, the application deserves to be allowed by imposing certain conditions. Hence, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Pavan Santosh Wagh in connection with Crime No.442/2023, registered with Police Station Vasantnagar, Pusad, District Yavatmal for the offence punishable under Sections 376(2)(n) and 506 of the Indian Penal Code, be released on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one surety in the like amount.

(iii) The applicant shall not enter into the vicinity of Dhankeshwar Nagar, Pusad, District Yavatmal, till conclusion of the trial.

(iv) The applicant shall attend concerned police station as and when called by the Investigating Officer for the investigation purpose.

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

(vi) The applicant shall not in any manner communicate or contact with the victim, till the conclusion of the trial.

9. The application is disposed of.

10. The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)

**Divya*