



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

CRIMINAL APPLICATION (ABA) NO.12 OF 2024
(Mangesh s/o Ramesh Kamble Vs. 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. A.M. Tirukh, Advocate for the applicant.
Mr. A.R. Chutke, APP for the State.
Mr. A.D. Mhala, Advocate for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- FEBRUARY 13, 2024.

Heard.

2. By this application, the applicant is seeking anticipatory bail in connection with Crime No.824/2023 registered with police station Washim, Tahsil and District Washim for offence punishable under Sections 376, 323 and 506 of the Indian Penal Code.

3. Learned Counsel for the applicant submitted that there was an acquaintance between the applicant and the victim and victim was working on the site of present applicant and she was subjected for sexual assault by the applicant against her consent. On the basis of said report, police have registered the crime. He further submitted that the applicant has also obtained objectionable photographs as per the allegations. In fact, there was a love affair between the applicant and the victim. Out of love affair there was a physical relationship. The custodial

interrogation of the present applicant is not required. In view of that, he be protected by granting anticipatory bail.

4. Learned Additional Public Prosecutor strongly opposed the application on the ground that the applicant has administered her some stupefying substance and subjected her for sexual assault against her consent. He has also obtained her objectionable photographs and therefore, his physical custody is required for seizure of the said mobile phone.

5. Learned Counsel for non-applicant No.2 endorsed the same contention and submitted that there was only an acquaintance between the victim and the applicant and the victim is subjected for forceful sexual assault by the applicant. In view of that, considering the nature of the offence, the application deserves to be rejected.

6. Having heard learned Counsel for the parties. Perused the investigation papers. From the investigation papers it reveals that the victim got acquaintance with the present applicant which resulted into the love affair. The victim is a married woman. As per her allegation, the applicant has subjected her for sexual assault against her consent. During investigation, she was referred for the medical examination. As far as her allegation that some stupefying substance was administered to her is not substantiated by any medical report. The Investigating

Officer has already recorded various statements of the witnesses. Considering the nature of the allegations, it appears that out of love affair between them there was a physical relationship.

7. Learned Additional Public Prosecutor submitted that the applicant has obtained the objectionable photographs of the victim in his mobile phone. There is no allegation in the FIR regarding objectionable photographs however, to ascertain the facts, some conditions can be imposed on the present applicant.

8. Considering the nature of the allegations, the physical custody of the present applicant is not required, therefore, he can be protected by granting anticipatory bail by imposing certain conditions. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) In the event of arrest, the applicant – Mangesh s/o Ramesh Kamble in connection with Crime No.824/2023 registered with police station Washim, Tahsil and District Washim for offence punishable under Sections 376, 323 and 506 of the Indian Penal Code, be released on anticipatory bail on executing a PR.Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount.

(iii) The applicant shall attend the concerned police station once in a week i.e. on every Sunday between 10.00 a.m. and 1.00 p.m. and shall produce his mobile phone before the Investigating Officer. The period of production of the mobile phone can be considered as his custody for the purpose of Section 27 of the Indian Evidence Act, 1872.

(iv) The applicant shall not directly or indirectly make any inducement and threat or promise to any person acquainted with the facts of the present case.

(v) The applicant shall not enter into the vicinity Ramai Gharkul Awas, Kata Road, Washim till the culmination of the trial.

9. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)

**Divya*