



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

CRIMINAL APPLICATION (BA) NO.32 OF 2024

(Sonu s/o Makhkhanlal Yadav 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.K. Bhangde, Advocate for the applicant.
Mr. A.R. Chutke, APP for the State.
Ms M.S. Kotecha, Advocate for the non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MARCH 06, 2024.

By this application, the applicant is seeking bail in connection with Crime No.344/2023 registered with Police Station Mankapur, Nagpur, District Nagpur for the offences punishable under Sections 376, 376(2)(j), 376(2)(n), 328 and 506 of the Indian Penal Code.

2. The applicant is arrested on 01/10/2023. Since then he is behind bar.

3. The accusation against the present applicant is on the basis of report lodged by the victim who is 34 years of age who alleged that initially she was married with one Tushar Ashok Paswan and the said marriage was dissolved as she has obtained the divorce from her earlier husband. After getting divorce, she got acquaintance with the present applicant and thereafter they have exchange their cell numbers and friendship was developed between them. The applicant used to visit her house and they also used to roam together at different places. In between this period, the physical relationship was developed between

them. She alleged that on 07/11/2022 she along with the present applicant was travelling and the present applicant has administered her some stupefying substance mixing it in the soft drink due to which she was having giddiness and the present applicant subjected her for sexual assault. On the basis of said report, police have registered the crime against the present applicant.

4. Learned Counsel for the applicant submitted that from the recitals of the FIR itself it reveals that it was a consensual relationship between the present applicant and the victim. Now, after thought this false report is lodged. As far as the investigation part is concerned which is completed and the charge-sheet is filed. Further incarceration of the present applicant is not required. In view of that, the applicant be released on bail.

5. Learned Additional Public Prosecutor and learned Counsel for non-applicant No.2 strongly opposed the application on the ground that the applicant by mixing the stupefying substance in the soft drink subjected the victim for sexual assault. If applicant is released on bail he will tamper with the prosecution evidence and prays for rejection of the application.

6. I have heard learned Counsel for the parties and perused the investigation papers. From the recitals of the FIR it reveals that there was a friendship between the victim and the present applicant. The physical relationship appears to be consensual one. Whether there was a free consent or not is a matter of evidence. At this stage, the

investigation is completed and charge-sheet is filed, further incarceration of the present applicant is not required, no purpose would be served by keeping him behind bar. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass the following order :

- (i) The application is allowed.
 - (ii) The applicant - Sonu s/o Makhkhanlal Yadav in connection with Crime No.344/2023 registered with Police Station Mankapur, Nagpur, District Nagpur for the offences punishable under Sections 376, 376(2)(j), 376(2)(n), 328 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 solvent surety in the like amount.
 - (iii) The applicant shall not enter into the vicinity of Dashrath Nagar, Gittikhadan, Nagpur till the culmination of the trial.
 - (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.
7. The application is disposed of.
8. The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)