



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

CRIMINAL APPLICATION (BA) NO.140 OF 2024
(Vijay s/o Prithwiraj Thakre Vs. The 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

Mr. S.P. Sonwane, Advocate for the applicant.
Mr. S.S. Hulke, APP for the non-applicant/State.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MARCH 14, 2024.

By preferring this application, the applicant is seeking bail under Section 439 of the Code of Criminal Procedure. The applicant came to be arrested on 24/08/2023 in connection with Crime No.632/2023 registered with Police Station Yashodhara Nagar, Nagpur for the offence punishable under Sections 354D(2), 509, 500 and 506 of the Indian Penal Code and Section 67 of the Information Technology Act, 2000.

2. The crime is registered on the basis of report lodged by the victim on an allegation that she got acquaintance with the present applicant through Facebook. The present applicant established forceful physical relationship with her, and therefore, the FIR under Section 376 and 506 of the IPC came to be registered at police station Kalamna, Nagpur being crime No.30/2023 wherein the applicant was arrested. After he released on bail he threatened the prosecutrix with

weapon, and therefore, another crime i.e. 439/2023 along with Section 4/25 of the Arms Act, 1959 and Section 135 of the Maharashtra Police Act, 1951 came to be registered against the present applicant. Thereafter on 10/08/2023 the applicant sent photo of victim from his mobile phone to the President of NGO and also sent message on the mobile of the victim with the intention to defame the her. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that except the offence under Section 67 of the Information Technology Act, 2000 all other offences are bailable one. He also invited my attention towards the WhatsApp chat between the NGO and the present applicant which shows that he only intimated to the said NGO that his intention was not of threatening but whatever happened he want to ignore the same and to lead his life. He also invited the attention towards the photographs and submitted these are not the obscene photographs, these are the normal photographs and therefore, the offence under Section 67 of the Information Technology Act is also not attracted against the present applicant.

4. *Per contra*, learned Additional Public Prosecutor strongly opposed the said application on the ground that by forwarding the said photographs the present applicant attempted to defame the victim, if he is

released on bail again he would made attempt to pressurize the victim and will tamper with the prosecution evidence. In view of that the application deserves to be rejected.

5. I have heard learned Counsel for both the parties. Perused the investigation papers which shows that from the mobile phone of the present applicant some photographs are detected but these are not the obscene photographs. From the photographs it also shows that there was a love relationship between the present applicant and the victim. The message sent to the NGO and victim is also perused from which it reveals that the applicant communicate with the NGO that whatever happened was mistake on his part and now he wants to proceed with the remaining life. Considering the nature of the message sent to the NGO and the victim and considering the fact that the investigation is already completed and charge-sheet is filed, further incarceration of the present applicant is not required. Hence, the application deserves to be allowed. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) The applicant – Vijay s/o Prithwiraj Thakre in connection with Crime No.632/2023 registered with Police Station Yashodhara Nagar, Nagpur for the offence

punishable under Sections 354D(2), 509, 500 and 506 of the Indian Penal Code and Section 67 of the Information Technology Act, 2000, be released on bail on executing a P.R.Bond in the sum of Rs.25,000/- with one solvent surety, in the like amount.

(iii) The applicant shall not communicate with the victim in any manner either by electronic medium or by physical visiting the house to the victim or to meet the victim at any place.

(iv) The applicant shall attend the concerned police station as and when required for the investigation purpose and shall cooperate with the investigating agency.

(v) 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.

6. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)