



IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH AT NAGPUR

CRIMINAL APPLICATION (BA) NO. 139/2024

Satyam Vithal Chavhan

Vs.

**State of Maharashtra, through Police Station Officer, Digras and
another**

Office Notes, Office Memoranda of Coram, Appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. S.S. Shaikh, Advocate for applicant
Mr. S. Joshi, APP for Respondent / State
Mr. A.S. Mishrikotkar, Advocate for Respondent No.2

CORAM: URMILA JOSHI-PHALKE, J.

DATED : 19th MARCH, 2024

The applicant came to be arrested on 20/10/2023, in connection with Crime No. 632/2023, registered with Police Station Digras, District Yavatmal under Sections 376, 376(2)(n), 354-D, 294, 506, 149 read with Section 34 of the Indian Penal Code.

2. The accusations against the present applicant is that on the basis of the report lodged by the victim on an allegation that she got acquaintance with the present applicant and thereafter love relations were developed between them. They were communicating with each other. The applicant has promised for marriage and subjected her for sexual assault. She further

alleged that the present applicant on the pretext that he will defame her if she denies to perform marriage with him and obtained an amount of Rs.80,000/- from her, took her at Pune and subjected her for sexual assault and thereafter left her at Washim.

3. On the basis of the said report, the police have registered the crime against the present applicant. During investigation, the victim was referred for the medical examination and after completion of investigation, charge-sheet is filed against the present applicant.

4. The learned counsel for the applicant submitted that from the statement of the victim, it reveals that there was a relationship between them out of love affair and the victim has consented for the sexual assault, therefore, no offence is made out against the present applicant. Now investigation is already completed and charge-sheet is filed. Further custodial interrogation of the present applicant is not required. In view of that he be released on bail.

5. The learned APP for the State strongly opposed the application on the ground that the victim was subjected for sexual assault on false promise. Though investigation is completed, there

is every possibility of tampering of the witnesses by the present applicant. In view of the above, the application deserves to be rejected.

6. The learned counsel for the respondent / non-applicant No.2 endorse the said contentions and prays for rejection of the application.

7. Having heard the learned counsel for the applicant, learned APP and learned counsel for the non-applicant / respondent No.2 and perused the investigation papers and from the said papers, it reveals that the statement of the victim itself shows that she got acquaintance of the present applicant and she was communicating with him and there was physical relations with him. She also states that she went to Pune and stays there with the applicant for 12 days. Previous to the lodging of FIR, she has not made complaint of threatening her by the present applicant at Pune. As far as the allegations regarding accepting of the amount from the victim by the applicant is the ground, except the statement there is no other material to show that some amount is obtained by the present applicant from the victim. From the statement of the victim, it reveals that it was the consensual act, however, whether there was any free consent or not is a matter of evidence. At this

stage, whether it was a free consent or there was a false promise or breach of promise is also a matter of evidence. Admittedly, the statement of the victim shows that she was subjected to sexual assault by the present applicant on the false promise of marriage, but has observed earlier the consent which is whether obtained or not under the misconception of the fact of course is a matter of evidence. Considering that the investigation is completed and charge-sheet is filed no purpose would be served by keeping the present applicant behind the bars and further incarceration is not required. Accordingly, I pass the following order.

ORDER

- I. The application is allowed.
- II. The applicant shall be released on bail in connection with Crime No. 632/2023, registered with Police Station Digras, District Yavatmal under Sections 376, 376(2)(n), 354-D, 294, 506, 149 read with Section 34 of the Indian Penal Code on executing PR bond of Rs.25,000/- with solvent surety in the like amount.
- III. The applicant shall not enter into the vicinity of Gandhi Nagar, Digras, District Yavatmal, till culmination of the trial.

IV. The applicant shall not induce, threat or promise to any witnesses which are acquainted with the facts of the case in any manner.

8. The fees of the appointed counsel be quantified as per law.

9. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)