



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

CRIMINAL APPLICATION (BA) NO.222 OF 2024

Sandip s/o Ganesh Yeldare
Vs.

State of Maharashtra, Through Police Station Officer, Police Station, Digra
District Yavatmal and another

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. R. J. Shinde, Advocate for applicant.
Mr. M. J. Khan, APP for respondent No.1/State.
Ms. C. S. Bhute, appointed Advocate for respondent No.2.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 04/04/2024

1. The applicant came to be arrested on 05.01.2024 in connection with Crime No.6/2024 registered with Police Station, Digra, District Yavatmal for the offence punishable under Sections 366, 376(2)(n) and 417 of the Indian Penal Code.

2. The accusation against the present applicant is on the basis of report lodged by the victim aged about 22 years on an allegation that she got acquaintance with the present applicant and friendship was developed between them. Their friendship turned into the love affair and she used to communicate with the present applicant, thereafter the present applicant promised her for marriage and therefore, she eloped with him. The present applicant has subjected her for sexual assault on the promise of marriage and thereafter, left her at some place and

not turned back. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that out of a love affair there was a consensual relationship between the present applicant and the victim. There was no intention to cheat the victim, but due to some reasons that relationship was not continued. Now, the investigation is already completed and charge-sheet is filed. Further incarceration of the present applicant is not required. In view of that, the applicant be released on bail.

4. Learned APP and learned appointed Counsel for the respondent No.2 strongly opposed the application on the ground that under the misconception the applicant has obtained the consent and subsequently denied to perform the marriage with her, there was intention since inception. Though investigation is completed and charge-sheet is filed, if the applicant is released on bail, he would tamper with the prosecution evidence. In view of that, the application deserves to be rejected.

5. After hearing the learned Counsel for the applicant, learned APP for the State and learned Counsel for the respondent No.2, perused the recitals of the FIR and the statement of the victim. It reveals

that out of a love affair, the victim left her parents house and joined the company of the present applicant. The victim is a grownup lady knows the consequence of her act. Out of a love affair, there was a physical relationship between them. Whether there was a misconception and under the said misconception the consent was obtained or not is a matter of evidence. The intention which is inner compartment of the mind of the said person can be gathered from the circumstances. At this stage, the investigation is completed and charge-sheet is filed. Further incarceration of the present applicant is not required. Whether there was an intention or not to cheat the victim is also a matter of evidence.

6. Considering the investigation is completed and the physical relationship appears to be by consent, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order.

ORDER

(i) The application is allowed.

(ii) The applicant **Sandip s/o Ganesh Yeldare** shall be released on bail, in connection with Crime No.6/2024 registered with Police Station, Digras, District Yavatmal for the offences punishable under Sections 366, 376(2)(n) and 417 of the Indian Penal Code, on executing PR bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

(iii) The applicant shall not enter into the village Sawanga, Taluka Digras, District Yavatmal, till culmination of the trial.

(iv) The applicant shall not induce, threat or promise any witnesses including the victim by communicating with her in any manner, till the culmination of the trial.

7. The fees of the appointed Counsel be quantified as per rule.

(URMILA JOSHI-PHALKE, J.)