



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

CRIMINAL APPLICATION (ABA) NO.174 OF 2024
(Ashish s/o Satyanarayan Vyas 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. H.M. Mohta, Advocate for the applicant.
Ms R.V Sharma, APP for the State.
Ms C.S. Bhute, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- MARCH 28, 2024.

Heard.

2. By this application, the applicant is seeking pre-arrest bail. The applicant is apprehending arrest at the hands of police in connection with Crime No.83/2024 registered with Police station Shegaon, Taluka Shegaon, District Buldhana for the offence punishable under Sections 376(2)(n), 384, 323, 354(D), 504 and 506 of the Indian Penal Code.

3. The accusation against the present applicant is on the basis of report lodged by the victim who is aged about 38 years. As per the allegation she got acquaintance with the present applicant through Facebook thereafter the friendship was developed between them. The applicant introduced himself as a broker of the lands and he is running the business. He also promised her for some post as he is the active member in the politics. It is further alleged that on the promise of marriage she was subjected

for sexual assault by the present applicant. On the basis of said report, police have registered the crime.

4. Learned Counsel for the applicant submitted that with the false allegation, the FIR is lodged against the present applicant. In fact, regarding the earlier transaction, there was settlement between the present applicant and the victim in the Chandrapur police station and it was agreed that present applicant shall pay some amount to her. Accordingly, the applicant has paid total amount of Rs.80,000/- to the informant and thereafter this false allegation is made against the present applicant. He submitted that even considering the allegations as it is, it reveals that there was a consensual relationship between her and the present applicant. The custodial interrogation of the present applicant is not required. In view of that, he be protected by granting anticipatory bail.

5. Learned Additional Public Prosecutor and learned Counsel for the informant strongly objected the application on the ground that victim was blackmailed by the present applicant and by administering her stupefying substance, she was subjected for the sexual assault. Considering the *prima facie* material against the present applicant, the application deserves to be rejected.

6. I have heard learned Counsel for both the parties. Perused the Investigation papers. It reveals from the investigation papers that she got acquaintance with

the present applicant through Facebook, thereafter friendship was developed between them which resulted into the love affair. There was a consensual relationship between them. It further reveals from the investigation papers that victim used to meet the applicant as well as there was a communication of the WhatsApp chat between the present applicant and the victim from which also it reveals that there was a consensual relationship between the present applicant and the victim. As far as the investigation part is concerned, now the statement of the victim is already recorded. She was referred for medical examination, her medical examination is also carried out. Now, the investigation is practically completed, the custodial interrogation of the present applicant is not required. As far as consent part is concerned whether there was a breach of promise or the consent was obtained under the misconception of fact is a matter of evidence. At this stage, it reveals from the investigation papers that there was a consensual relationship between them, out of which the alleged incident has taken place. The custodial interrogation of the present applicant is not required as nothing is to be recovered from the present applicant. In view of that, the application deserves to be allowed by imposing certain conditions. Accordingly, I proceed to pass following order:

- (i) The application is allowed.

(ii) In the event of arrest, the applicant – Ashish s/o Satyanarayan Vyas in connection with Crime No.83/2024 registered with Police station Shegaon, Taluka Shegaon, District Buldhana for the offence punishable under Sections 376(2)(n), 384, 323, 354(D), 504 and 506 of the Indian Penal Code, be released on anticipatory 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 attend the concerned police station once in a week i.e. on every Sunday between 10.00 a.m. and 1.00 p.m. till filing of the charge-sheet and shall cooperate with the investigating agency.

(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 including the victim.

(v) The applicant shall not enter into the vicinity Tahsil Tiosa, District Amravati till culmination of the trial.

(vi) The applicant shall furnish his Cell phone number and address along with the address proof before the Investigating Officer.

(vii) The applicant shall produce his mobile

phone before the Investigating Officer and the period of the production shall be considered as his custody for the purpose of Section 27 of the Indian Evidence Act, 1872.

7. The application is disposed of.
8. The fees of the appointed Counsel be quantified as per rules.

(URMILA JOSHI-PHALKE, J.)

**Divya*