



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

CRIMINAL APPLICATION (ABA) NO.354 OF 2024

Pritam Kushal Ramteke

Vs.

State of Maharashtra, Through Police Station Officer, Police Station,
Ramnagar, Chandrapur City, Chandrapur

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

Court's or Judge's orders

Mr. R. M. Daga, Advocate with Mr. Anirudh Ananthakrishnan, Advocate for
applicant.

Ms. H. N. Prabhu, APP for respondent/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 10/06/2024

1. Apprehending the arrest at the hands of police in connection with crime No.457/2024 registered with Police Station, Ramnagar Chandrapur for the offences punishable under Sections 376, 376(2)(a)(i), 376(2)(n), 313, 417 and 506 of the Indian Penal Code.

2. The applicant is apprehending arrest at the hands of police, as the crime is registered on the basis of report lodged by victim, who is aged about 35 years that she got acquaintance with the present applicant in the year 2017. Thereafter, there was exchange of messages between them. The applicant has called her at various places and expresses his feelings that he loves her and want to marry with her. The victim was already married woman. It is alleged

that the applicant has subjected her forceful sexual assault by calling her in July 2017. It is further alleged that he has obtained her nude photographs and threatened her that he would make it viral if she denies for the physical relationship. It is further alleged that in the year 2023, she was pregnant, but the applicant forced her for to abort the child. Thereafter on three occasions, she undergone the said abortion and lastly, on 22.01.2024, she delivered a child. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel Mr. Daga for the applicant submitted that the victim is 35 years grownup woman. From the recitals of FIR, it reveals that there was consensual relationship between the victim and the present applicant. Only to extract the money from the present applicant, this false FIR is lodged. He invited my attention towards the application filed by the present applicant before the investigating agency on 15.04.2024. On the basis of the said application, the NC was registered against the victim. He also placed on record the data of messages which shows that there was a consensual relationship between the victim and the present applicant. He submitted that in the background of the above circumstances, it reveals that no offence is committed by the present applicant, but the physical relationship was by consent. The physical custody of the present applicant is not required. As far as the

contention of the investigating agency is concerned, mobile phone of the applicant is to be recovered and the blood samples are to be obtained. The applicant is ready to cooperate with the investigating agency.

4. Learned APP strongly opposed the said application on the ground that considering the statement of the victim that she was subjected for sexual assault by threatening her, so also the victim has delivered a child recently and paternity of the child is to be discovered. The mobile phone of the present applicant is also required for the investigating purpose, in view of that, the application deserves to be rejected.

5. After hearing the learned Counsel for the applicant and learned APP for the State, perused the investigating papers. There is no dispute as to the fact of the age of the victim, who is aged about 35 years old and married lady. It reveals from her statement that there was exchange of the messages between her and the present applicant and present applicant has called her on various places and subjected her for sexual assault. Admittedly, no previous complaints are filed by the victim regarding the forceful sexual assault. It reveals that there was a physical relationship between them by consent. It is now undisputed position that mere breach of promise is not sufficient to attract the offence punishable under Section 376 of the Indian Penal

Code. At this stage, there is nothing on record to show that since inception there was an intention of the present applicant to subject her for sexual assault with intent to chit her. It seems that there was only a breach of promise, there may be several reasons for said breach of promise. From the investigation papers it also reveals that out of consensual relationship, the victim has delivered a child.

6. As far as the contention of the prosecution that his custodial interrogation is required for the purpose of obtaining his mobile phone for the investigation purpose and for obtaining the blood samples is concerned, learned Counsel Mr. Daga for the applicant submitted that the applicant is ready to cooperate with the investigating agency. Considering the same, physical custody of the present applicant is not required and therefore, the application deserves to be allowed. Accordingly, I proceed to pass following order:

(i) The application is allowed.

(ii) In the event of arrest in connection with crime No.457/2024 registered with Police Station, Ramnagar, Chandrapur for the offences punishable under Sections 376, 376(2)(a)(i), 376(2)(n), 313, 417 and 506 of the Indian Penal Code, the applicant **Pritam Kushal Ramteke** shall be released on anticipatory bail on executing PR bond 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 on Sunday between 10.00 a.m. to 1.00 p.m. and shall cooperate with the investigating agency, till filing of the charge-sheet.

(iv) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case.

7. The application is disposed of.

(URMILA JOSHI-PHALKE, J.)