



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

CRIMINAL APPLICATION (ABA) NO.425 OF 2024
(Sharad s/o Keshavrao Jodh 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. J.B. Gandhi, Advocate for the applicant.
Mr. A.G. Mate, APP for the State.
Ms A.S. Mishrikotkar, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- JULY 22, 2024.

By preferring this application, the applicant is seeking pre-arrest bail in connection with Crime No.243/2024 registered with Police Station Dabki Road, Akola, District Akola for the offences punishable under Sections 376(2)(n), 452 and 506 of the Indian Penal Code, 1860.

2. Learned Counsel for the applicant submitted that the allegations against the present applicant is on the basis of report lodged by the victim aged about 27 years on an allegation that she got acquaintance with the present applicant and present applicant has threatened her that if he is not allowed to have physical relations with her he would kill her daughter and on that count on 12/03/2024, the applicant came to her house and subjected her for sexual assault. On the basis of said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that there was an acquaintance between the present applicant and the victim and by consent there was a physical relationship. He has also placed on record the communication which according to him shows that it was the victim who used to call him. The medical history narrated before the Medical Officer also supports the said contention. He submitted that subsequently this false FIR is lodged against the present applicant.

4. Learned APP and learned Counsel for non-applicant No.2 strongly opposed the application on the ground that by threatening the victim, she was subjected for sexual assault, therefore, his custodial interrogation is required.

5. I have heard learned Counsel for both the sides. Perused the investigation papers from which it reveals that victim and the present applicant got acquaintance with each other, thereafter there was a communication between them. The WhatsApp details which are filed on record by the applicant also shows that they were communicating with each other. The history narrated before the Medical Officer also shows that there was a communication between them and the applicant asked her for sexual favours. At this stage, it is apparent that out of the acquaintance they were communicating with each other and there was a physical relationship. From the statements and the medical history narrated by

the victim sufficient to show that it was a consensual physical relationship between both of them. As far as the custodial interrogation is concerned which is not required. In view of that, the applicant can be protected by granting anticipatory bail. Accordingly, I proceed to pass the following order :

(i) The application is allowed.

(ii) In the event of arrest, the applicant – Sharad s/o Keshavrao Jodh in connection with Crime No.243/2024 registered with Police Station Dabki Road, Akola, District Akola for the offences punishable under Sections 376(2)(n), 452 and 506 of the Indian Penal Code, 1860, 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 as and when required for the investigation purpose 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.

(v) The applicant shall not enter into the vicinity of Mehre Nagar, Dabki Road, Akola, till culmination of the trial.

6. The application is disposed of.

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

(URMILA JOSHI-PHALKE, J.)

**Divya*