



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

CRIMINAL APPLICATION (ABA) NO. 429 OF 2024

Aashik s/o Rashid Barde V/s State of Maharashtra

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Mr. A. C. Jaltare, counsel for applicant.

Mr. N.B.Jawade, APP for non-applicant/State.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 20/06/2024.

1. Apprehending the arrest at the hands of Police in connection with Crime No. 415/2024 registered with Police Station Gittikhadan, District Nagpur for the offence punishable under Sections 313, 323, 498A, 504, 506 of the Indian Penal Code, 1860 and Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019, the applicant has approached this court for grant of pre-arrest bail.

2. Learned counsel for the applicant submitted that the informant has lodged the report against him and other co-accused, on an allegation that her marriage was performed with one Syed Azhar Ali. As per her allegation, after marriage she was ill-treated by her husband and in-laws. They further insisted her to terminate the pregnancy against her wish. She was taken to the hospital of the present applicant. It is alleged that present applicant against her consent has terminated her pregnancy, due to which she has

undergone mental trauma. On the basis of said report, police have registered the crime against the present applicant.

3. Learned counsel for the applicant submitted that applicant is a medical professional and the informant came to his hospital for terminating the pregnancy accompanied by her husband. After obtaining her consent as well as the consent of her husband, the pregnancy was terminated. Thus, applicant is not at all involved in the concerned offence. Merely because, there is a dispute of matrimonial nature, he is implicated by the informant falsely. As far as the custodial interrogation is concerned, which is not required.

4. Learned APP strongly opposed the said application on the ground that the husband of the informant took her in the hospital and in connivance with the present applicant against her consent, the pregnancy was terminated. Thus, there is a prima-facie material against the present applicant, therefore, application deserves to be rejected.

5. After hearing learned counsel for the applicant and learned APP for the State, perused the recitals of the FIR. As per the allegations, the applicant has terminated the pregnancy of informant without her consent. From recitals of the FIR, it reveals that the allegations against the present applicant is that he has terminated the pregnancy without the knowledge of the informant and since then her health is not good. As far as the allegations are concerned, I am not

supported with any material as consent form which is not obtained is not only signed by the husband of the present applicant but by the informant also. Thus, considering the said consent form, it reveals that after obtaining the due consent of the informant, the pregnancy was terminated.

6. Considering the entire recitals of the FIR, at this stage, no offence is made out against the present applicant to show that his custodial interrogation is required. In view of that he can be protected by granting ad-interim protection. At the same time, as the Sessions Court has not decided the applications, some directions are required to the said Court also. In view of that, I proceed to pass the following order:

ORDER

- a] In the event of his arrest, the applicant -Aashik s/o Rashid Barde, shall be released on ad-interim anticipatory, in connection with Crime No. 415/2024 registered with Police Station Gittikhadan, District Nagpur for the offence punishable under Sections 313, 323, 498A, 504, 506 of the Indian Penal Code, 1860 and Section 4 of the Muslim Women (Protection of Rights on Marriage) Act, 2019, on executing P.R. Bond of Rs. 25,000/- with one solvent surety in the like amount.
- b] The applicant shall attend the concerned Police Station as and when required in the investigation

purpose and shall cooperate with the investigating agency.

- c] The Additional Sessions Judge-8, Nagpur shall dispose of the application with one week.
- d] In the light of the above directions, the criminal application is **disposed of**.
- e] The parties shall act upon duly authenticated copy of order.

[URMILA JOSHI-PHALKE, J.]