



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

CRIMINAL APPLICATION (ABA) NO.735 OF 2024

Yogesh Anilrao Nishane
Vs.

State of Maharashtra, Through Police Station Officer, Shegaon City,
District Buldhana

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

Court's or Judge's orders

Mr. K. P. Mahalle, Counsel for the applicant.
Mr. Ganesh Umale, APP for non-applicant /State.
Mr. Anand Prakash Thakare, Counsel for assist to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.
DATED : 18 /10/2024

Criminal Application (APPP) No.1916/2024

1. By this application, the victim is seeking permission to engage the Counsel to assist the prosecution.
2. In view of the reasons mentioned in the application, permission is granted and she is permitted to engage the Counsel to assist the prosecution.
3. She has also filed her reply which is taken on record.
4. The application is disposed of.

CRIMINAL APPLICATION (ABA) NO.735 OF 2024

1. Apprehending the arrest at the hands of police in connection with Crime No.563/2024 registered with Police Station Shegaon, District Buldhana for the offence punishable under Sections 376, 376(2)(n), 504 and 506 of the Indian Penal Code, the applicant approached this Court for grant of pre-arrest bail.

2. As per the accusation against the present applicant by the victim/informant girl aged about 27 years that she got acquaintance with the present applicant and thereafter, they started communicating with each other. There was a love affair between them and out of that love affair, physical relationship was developed between them. Subsequently, the applicant denied to perform the marriage with her and therefore, she lodged the report against the present applicant. On the basis of the said report, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that considering the recitals of the FIR, it reveals that out of a love affair, there was consensual relationship between the applicant and the victim. As far as the allegations are concerned, custodial interrogation of the present applicant is not required,

therefore, he be protected by granting ad-interim protection.

4. Learned Counsel filed a reply for the victim and wherein it is admitted that there was a consensual relationship between the victim and the present applicant. However, allegation is that the applicant has obtained her consent on the promise of marriage.

5. After hearing the learned Counsel for the applicant and learned APP for the State as well as learned Counsel for the victim, perused the recitals of the FIR from which it reveals that two grown up persons came together out of a love affair and out of consent there was a physical relationship between them. Mere breach of promise it is not sufficient to attract the provisions of Section 376 of the Indian Penal Code. However, it is necessary to go through the investigation papers. As far as the custodial interrogation is concerned, at this stage, from the recitals of the FIR, it reveals that out of consent the relationship was developed between them and immediate custodial interrogation is not required. Learned Counsel for the complainant/victim further submitted that now they have decided to perform the marriage therefore, this fact is also requires to be taken into consideration. In view of that, the prayer for grant of ad-interim protection deserves to be

allowed. Accordingly, I proceed to pass following order:

ORDER

(i) In the event of arrest, in connection with Crime No.563/2024 registered with Police Station Shegaon, District Buldhana for the offence punishable under Sections 376, 376(2) (n), 504 and 506 of the Indian Penal Code, the applicant **Yogesh Anilrao Nishane** shall be released on ad-interim anticipatory bail, on executing PR Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.

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

(iii) The applicant shall attend the concerned Police Station as and when required for the investigation purpose and shall cooperate with the investigating agency.

6. Learned APP waives service of notice for the State.

7. Stand over after Diwali Vacation.

(URMILA JOSHI-PHALKE, J.)