



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

CRIMINAL APPLICATION (BA) NO.366 OF 2025
(Manoj s/o Sundarlal Dhurve 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. M.A. Deo, Advocate for the applicant.
Mr. A.M. Ghogare, APP for the State.
Ms R.M. Mishra, Advocate (appointed) for non-applicant No.2.

CORAM:- URMILA JOSHI-PHALKE, J.
DATED :- APRIL 22, 2025.

By this application, the applicant is seeking bail as he came to be arrested on 25/02/2025 in connection with Crime No.112/2025 registered with Police Station Gadchiroli, District Gadchiroli for the offences punishable under Section 69 of the Bharatiya Nyaya Sanhita, 2023.

2. A major victim girl has lodged the report alleging that she is studying upto 12th standard. She got acquaintance with the present applicant through Facebook and thereafter they started communicating with each other. The applicant promised her for marriage and thereafter subjected her for the forceful sexual assault and subsequently denied to perform marriage with her. On the basis of the same, police have registered the crime against the present applicant.

3. Learned Counsel for the applicant submitted that the WhatsApp chat exchanged between the present applicant and the victim discloses the type of the relationship which is the consensual relationship. As far as the further incarceration is concerned which is not required as the investigation is practically completed. The statement of the victim and the WhatsApp chat sufficiently shows that it was the consensual act. In view of that, he be released on bail.

4. Learned APP and learned Counsel for non-applicant No.2 strongly opposed the application on the ground that under the misconception of the fact the victim was subjected for the forceful sexual assault, and therefore, the application deserves to be rejected.

5. I have heard learned Counsel for both the sides. Perused the investigation papers from which it reveals that the victim and the present applicant got acquaintance with each other through Facebook thereafter they were communicating with each other. The WhatsApp chat exchanged between both of them discloses the nature of the relationship which is consensual nature. In view of the observation of the Hon'ble Apex Court in the case of *Dr. Dhruvaram Murlidhar Sonar Vs. The State of Maharashtra & Ors. in Criminal Appeal No.1443/2018 (Arising Out Of S.L.P (Criminal) No.6532 Of 2018)* in para number 20 which reads as under:

“20. Thus, there is a clear distinction between rape and consensual sex. The court, in such cases, must very carefully examine whether the complainant had actually wanted to marry the victim or had mala fide motives and had made a false promise to this effect only to satisfy his lust, as the later falls within the ambit of cheating or deception. There is also a distinction between mere breach of a promise and not fulfilling a false promise. If the accused has not made the promise with the sole intention to seduce the prosecutrix to indulge in sexual acts, such an act would not amount to rape. There may be a case where the prosecutrix agrees to have sexual intercourse on account of her love and passion for the accused and not solely on account of the misconception created by accused, or where an accused, on account of circumstances which he could not have foreseen or which were beyond his control, was unable to marry her despite having every intention to do. Such cases must be treated differently. If the complainant had any mala fide intention and if he had clandestine motives, it is a clear case of rape. The acknowledged consensual physical relationship between the parties would not constitute an offence under Section 376 of the IPC.”

6. In view of the above, the case for grant of bail considering that there was a consensual relationship knowing by the victim with the present applicant, the

application of the applicant deserves to be allowed. Accordingly, I proceed to pass the following order:

- (i) The application is allowed.
- (ii) The applicant – Manoj s/o Sundarlal Dhurve in connection with Crime No.112/2025 registered with Police Station Gadchiroli, District Gadchiroli for the offences punishable under Section 69 of the Bharatiya Nyaya Sanhita, 2023, be released on bail on executing PR. Bond in the sum of Rs.25,000/- with one solvent surety in the like amount.
- (iii) The applicant shall furnish his detailed address with address proof and the names of his two relatives with their address proof, before the investigating agency.
- (iv) The applicant shall not enter into the vicinity of village Chichpalli, Taluka and District Chandrapur, till culmination of the trial.
- (v) The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case either personally or by way of electronic media.

(vi) The applicant shall attend the proceedings before the Sessions Court without seeking any exemption unless there are exceptional circumstances.

7. The contravention of any of the condition would lead to the cancellation of bail.

8. The application stands disposed of.

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

(URMILA JOSHI-PHALKE, J.)

**Divya*