



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

CRIMINAL APPLICATION (ABA) NO.410 OF 2025

Gaurav Dwarkaprasad Sharma

Vs.

State of Maharashtra, through Police Station Beltarodi, Nagpur

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

Court's or Judge's orders

Ms. Anita Bafna, Counsel for the applicant.

Mr. Amit Madiwale, APP for non-applicant/State.

Mr. J. S. Nagalwade, Counsel for assist to prosecution.

CORAM : URMILA JOSHI-PHALKE, J.

DATED : 05/08/2025

1. Apprehending the arrest at the hands of police in connection with Crime No.196/2025 registered with Police Station Beltarodi, District Nagpur for the offence punishable under Sections 69, 351(1), 352 of the Bhartiya Nyaya Sanhita, 2023 and Section 66(d)(k) of the Information Technology Act, the applicant approached this Court for grant of pre-arrest bail.

2. The crime is registered on the basis of a report lodged by the victim, aged about 39 years, on an allegation that she got acquaintance with the present applicant, and the present applicant has subjected her for forceful sexual assault on various occasions. On the basis of the said report, police have registered the crime.

3. Heard learned counsel for the applicant, who submitted that the allegation against the present applicant is that he promised her for marriage and thereafter subjected her for forceful sexual assault. She invited my attention towards the various communications through the WhatsApp messages between the present applicant and the victim, who is a practicing lawyer. Learned Counsel for the applicant submitted that it is purely a consensual relationship between both of them, and subsequently, due to the breakup, this First Information Report (FIR) came to be lodged. She submitted that, as far as the custodial interrogation is concerned, which is not required, in view of that, he be protected by granting anticipatory bail.

4. Learned APP strongly opposed the application on the ground that the victim was subjected for forceful sexual assault on the false promise of marriage, and therefore, custodial interrogation of the present applicant is required.

5. Learned Counsel for the victim also endorsed the same contention, in addition to that she raised the apprehension that the applicant is likely to tamper with the prosecution evidence and also submitted that the applicant recently contacted one of her clients and tried to pressurize her. In view of that, the application deserves to be rejected.

6. After hearing both sides and on perusal of of the investigation papers, especially the WhatsApp chats between the present applicant and the informant, which shows that it was a consensual relationship between both of them. This aspect is now also considered by 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) decided on 22/11/2018** 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."

7. In view of the above observation of the Hon'ble Apex Court, and the only allegation reveals there is apprehension of tampering of witnesses which can be taken care of. In view of that, the application deserves to be allowed. Accordingly, I proceed to pass following order:

ORDER

a] The application is allowed.

b] The applicant – **Gaurav Dwarkaprasad Sharma**, shall be released on anticipatory bail, in the event of arrest, in connection with Crime No.196/2025 registered with Police Station Beltarodi, District Nagpur for the offence punishable under Sections 69, 351(1), 352 of the Bhartiya Nyaya Sanhita, 2023, and Section 66(d)(k) of the Information Technology Act, on executing P.R. Bond of Rs.25,000/- with one solvent surety in the like amount.

c] The applicant shall attend the concerned Police Station once in a week on Tuesday between 10.00 a.m. to 01.00 p.m. and shall cooperate with the investigating agency, till filing of the charge-sheet.

d] The applicant shall not enter into the jurisdiction of Beltarodi Police Station till the culmination of the trial.

e] The applicant shall not induce, threat or promise any witnesses who are acquainted with the facts of the case including the victim either physically or through electronic media.

f] The applicant is working at Zimbabwe, therefore he be permitted to appear as and when required for the investigation purpose on issuing the notice of seven days in advance.

The application is disposed of.

(URMILA JOSHI-PHALKE, J.)