

Order Below Exh.1 in Cri. B. Appln. No. 46/2022

(CNR No. MHNS010001312022)

Nivrutti Mohan Bendkoli Vs. State.

Heard: Ld. Adv. Mr. G. L. Bodke for the applicant.
Ld. A.P.P. Ms. S. S. Sangle for the State.

1. This is an application under Section 439 of the Code of Criminal Procedure, 1973 in Crime No.441/2021 registered at Police Station, Harsul, for the offences punishable under Sections 376 & 354 of the Indian Penal Code, 1860 (hereinafter referred to as IPC). It is the case of prosecution in brief that the accused/applicant committed forcible sexual intercourse with the complainant.

2. Learned Advocate for the applicant has submitted that there was a consensual love-affair between the applicant and the complainant (both of whom are married with children). The entire village knows about their love-affair. On the date of the incident, when the applicant and the complainant were out together at night, the complainant's nephew saw them together and therefore in order to hide her embarrassment, she lodged the FIR. It is pertinent to mention that initially the FIR was registered under Section 354 of the IPC. It is only after two days of the incident that Section 376 of the IPC was added.

Applicant is ready to abide by the terms and conditions imposed by the Court. The pandemic is at its peak in Nashik. Therefore, applicant should be released on bail.

3. Per contra, Ld. A.P.P. has opposed the application on the ground that the offence is serious in nature. Investigation is in progress and charge-sheet is yet to be filed. The blouse of the applicant has also been recovered from the spot.

4. Offence is serious in nature. However, material part of the investigation is over. Applicant is ready to abide by the terms and conditions imposed by the Court. In view thereof and in view of the ongoing pandemic, I am inclined to allow the application subject to the following terms and conditions only.

ORDER

- 1] Application is allowed.
- 2] Applicant Nivrutti Mohan Bendkoli be released on bail by executing P.R. and S.B. of ₹30,000/- with one or two local sureties of like amount.
- 3] Applicant shall not reside in the same village as the complainant till the filing of the charge-sheet.
- 4] Applicant shall not directly or indirectly, make any inducement, threat or promises to any person acquainted with the facts of accusation, so as to dissuade him/her from disclosing such facts to the Court or to the police officer and shall not

tamper with the prosecution evidence in any manner.

- 5] Applicant shall not commit any offence.
- 6] Applicant is duty bound to inform the I.O. about his change of address, if any.
- 7] Applicant shall furnish residence and ID proof of two blood relatives to the I.O.
- 8] Applicant shall attend all dates of hearing after the charge-sheet is filed.
- 9] Jail authorities shall conduct the necessary COVID-19 test before releasing the applicant.

(Order is dictated & pronounced in open court).

Nashik.
24/01/2022.

Mridula Bhatia
District Judge-2 and
Additional Sessions Judge,
Nashik.