

**Order Below Exh.1 in Cri.B.Appln.No. 289/2022
CNR No. MHNS010008712022**

Vaibhav Bhausahab Shejwal Vs. State

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

1. This is an application under Section 438 of Criminal Procedure Code in Crime No. 57/2022 registered at Police Station, Mumbai Naka, Nashik for the offence under Section 376 of I. P. C. It is the case of prosecution in brief that the accused/applicant and the victim were in a love-relationship with each-other. The applicant committed sexual intercourse with her on the false promise of marriage.

2. Perused the application and record. Ld. Adv. for the applicant has submitted that the applicant and the so-called victim were in a consensual relationship. Even as per the FIR, the victim is 21 years old. The applicant has not yet turned 21. He had told the victim that he would be marrying her as soon as he turns 21. However, the victim has chosen to file the FIR. He has filed documents in order to prove his date of birth. Moreover, the applicant is a second year student of B.Pharm. and his exams are in progress. There is no necessity of his custodial interrogation. Nothing needs to be recovered from the applicant. He is ready to co-operate with the investigation and comply with the terms and conditions imposed by the Court.

3. Per contra, Ld. A.P.P. has opposed the application on the ground that custodial interrogation of the applicant is necessary.

4. Even as per the FIR, this is a case of consensual relationship over a period of time. Only allegation against the applicant is that he has refused to marry the victim. Applicant has complied with the terms and conditions imposed by the Court and co-operated with the investigating agency. No recovery needs to be made from him. His custodial interrogation does not appear to be necessary in the facts of the case. Considering the same and considering the peculiar facts and circumstances of the case, I am inclined to allow the application in terms of the following order.

ORDER

- 1) Application is allowed.
- 2) Interim order dated 03/03/2022 passed below Exh.4 is hereby confirmed on the same terms and conditions.

28/03/2022
Nashik

M. V. Bhatia
District Judge-2 and
Addl. Sessions Judge, Nashik