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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 27 OF 2017

Anup s/o. Dattatraya Navgire,
Age: 28 years, Occu.: Service,
R/o. Plot No.181, Sane Guruji
Housing Society, N-5, CIDCO,
Aurangabad, Dist. Aurangabad

..APPLICANT

VERSUS

The State of Maharashtra
Through CIDCO Police Station,
Aurangabad, Dist. Aurangabad

..RESPONDENT

Mr Mangesh R. Jadhav, Advocate for applicant;
Mr A.D. Namde, Addl. Public Prosecutor for respondent.

CORAM : N.W. SAMBRE, J.

DATE : 17th January, 2017

ORAL ORDER :

By this application under Section 438 of the Code of Criminal Procedure, the applicant seeks his release on bail, in connection with C.R. No.1041 of 2016, registered with CIDCO Police Station, Aurangabad, for an offence punishable under Section 376 (2) (n) of the Indian Penal Code.

2. It is the case of the prosecution that between 25th April, 2013 and 7th October, 2016, the applicant has established relationship with victim Sandhya, who was also working as a School Teacher and has committed the crime in question.

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3. It is required to be gathered from the investigation papers that the victim herself has come out with a case that the applicant had physical relations with her from 25th April, 2013 to 7th October, 2016. The victim thereafter had noticed that the present applicant has got married on 18th December, 2016 and since an assurance of marriage given to her was not materialized, lodged the complaint in question.

4. What could be gathered from the record is, apart from unexplained delay in lodging the first information report, *prima facie* the consent by the complainant *qua* establishment of physical relationship with the applicant could be inferred from record.

5. It is noted that the offence came to be registered only after the present applicant got married.

6. In the above background, it is required to be appreciated that the applicant and complainant had physical relationship with the consent of each other and the complainant is admittedly a major. There are no criminal antecedents and the applicant would be very much available for investigation. In view thereof, the application needs to be allowed. Hence, following order :-

In the event of arrest of the applicant, in connection with C.R. No.1041 of 2016, registered with CIDCO Police Station, Aurangabad, for an offence punishable under Section 376 (2) (n) of the Indian Penal Code,

(3)

he be released on bail, on furnishing P.R. Bond of Rs.15,000/- with one or two sureties for the like amount.

The applicant shall attend the Investigating Officer on 21st and 22nd January, 2017, between 10.00 a.m. and 12 noon and thereafter as and when called.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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