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

CRIMINAL APPLICATION NO. 159 OF 2017

Amol s/o Gangadhar Avhad,
Age: 28 years, Occu: Agriculture,
R/o. Village Korta, Taluka-Basmat,
District-Hingoli

..APPLICANT

VERSUS

The State of Maharashtra,
Through Police Station Officer,
Kurunda, Police Station,
Kurunda, District – Hingoli

..RESPONDENT

Mr S.S. Rathi, Advocate for applicant;
Mr V. S. Badakh, Addl. Public Prosecutor for respondent;
Mrs R. D. Reddy, Advocate to assist Addl. Public Prosecutor

CORAM : N. W. SAMBRE, J.

DATE : 27th January, 2017

ORAL ORDER

By the present application under Section 439 of the Code of Criminal, the applicant, seeks his release on bail, in connection with C.R. No.84 of 2016, registered with Kurunda police station, Kurunda, District Hingoli, for offences punishable under Sections 366, 376, 323, 504, 506 read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that the applicant promised to the complainant Saraswati, who is a divorcee, to marry her and maintained physical relationship since 2014. However, his refusal to marry her,

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resulted into registration of the crime in question.

3. The applicant seeks bail on the ground that prior to the complaint in question, which is lodged on 1st December, 2016, there was another complaint lodged on 30th May, 2016, alleging that the applicant had obtained hand loan of Rs.3,00,000/- from the complainant, which was not refunded by him. Such complaint had resulted into registration of a non-cognizable offence. So far as the first complaint is concerned, there is no reference therein about the alleged relationship between the complainant and applicant Amol. It is only after lapse of period of six months, present complaint came to be lodged alleging physical relationship.

4. In the above background, bail is sought by the applicant, contending that this is a case of his false implication in the crime in question.

5. Learned Addl. Public Prosecutor, who is assisted by the learned Counsel appearing on behalf of the complainant, would urge that the offence is serious one. It is also claimed that the applicant is specifically named in the first information report, with attribution of a specific role and as the investigation is not yet completed and is at an advanced stage, the application be rejected.

6. Apart from above, learned Counsel appearing on behalf of the complainant submits that the first complaint dated 30th May, 2016 will have hardly any bearing over the present complaint in which bail is sought, as

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both are based on different incidents.

7. Having considered the submissions, it is to be noted that the complainant had initially lodged complaint on 30th May, 2016, in which the alleged relationship between the complainant and the applicant Amol is conspicuously absent and it could be noticed that the differences as alleged between her and applicant, which arrived in May, 2016 itself, is the transaction *qua* the amount to be paid was not honoured. It was expected of the complainant to narrate about alleged relationship between her and the applicant, however, the same does not find place in the said complaint.

8. It is then to be noted that the incident in question is claimed to have commenced in 2014 and it is only in 2016, the complaint came to be lodged alleging an offence punishable under Section 376 of the Indian Penal Code against the applicant. The inference that could be drawn from the record is that of consent.

10. For the reasons stated herein above, in my opinion, it will be appropriate to order release of the applicant on bail. Hence, following order :-

The applicant be released on bail, in connection with C.R. No.84 of 2016, registered with Kurunda police station, Kurunda, District Hingoli, for offences punishable under Sections 366, 376, 323, 504, 506 read with Section 34 of the Indian Penal Code, on furnishing P.R. Bond of

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Rs.25,000/- with one or two sureties for the like amount.

(i) The applicant shall not take any steps to influence the prosecution witnesses or tamper with evidence.

(ii) The applicant shall not enter the jurisdiction of the concerned police station till filing of the charge-sheet.

Criminal Application stands allowed in above terms.

(N. W. SAMBRE, J.)

amj