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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL BAIL APPLICATION NO. 3272 OF 2018

Uttam Chandrakant DavareApplicant

V/s.

The State of MaharashtraRespondent

Mr. Umesh H. Pawar advocate for the applicant
Ms. Sharmila S. Kaushik APP for the State
Mr. A. S. Kashid, Officer from Mahabaleshwar Police Station.

CORAM : NITIN W. SAMBRE, J.

DATE : FEBRUARY 4, 2019.

P.C.b

Applicant is seeking regular bail in Crime No. 59/2018 registered with Mahabaleshwar Police Station for offence punishable under Sections 376, 420, 506 of the Indian Penal Code and under section 66 D of Information Technology Act. Applicant was arrested on 07/06/2018.

2 Applicant claims to be an Army-man, facing trial for an offence of rape as it is claimed that the applicant cheated the complainant

by demonstrating that he is not married and established physical relation under the false promise of marriage.

3 There are two fold contentions raised by the learned counsel for the applicant:

(I) That the allegation in the complaint won't match with that of his leave period as the applicant at the relevant time was posted on duty in the State of Punjab.

(II) That presuming that there was any relationship, same can be inferred to be consensual.

4 The learned APP based on investigation submits that applicant has impersonated by another name and created proxy account with Shaadi.com under the same mobile no. i.e. 9158440329 i.e. in his own name and in the name of Sushant Patil so as to misrepresent the complainant that he is not the person by the name of applicant but by the name of Sushant Patil. According to the learned APP, there is sufficient material to infer *prima facie* involvement of the applicant.

5 The fact remains that during investigation, the extract from the concerned hotel at Mahabaleshwar where the applicant and complainant stayed were collected and referred to opinion of hand-writing expert which report is awaited.

6 So far as the available material on record is concerned, *prima facie* the necessary ingredients of section 420 of the Indian Penal Code are very much satisfied. So far as the allegation against the applicant for offence under section 376 of the Indian Penal Code is concerned, though the investigation carried out till date depicts contradictions, still in my opinion, the opinion of the hand writing expert will clear the cloud. As such, present application, at this stage, stands rejected.

7 Liberty to the applicant to apply afresh after receipt of report of the hand writing expert.

[NITIN W. SAMBRE, J.]