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

**BAIL APPLICATION NO.2927 OF 2018
WITH
APPP NO.1423 OF 2018**

Hyder Jamil Hussain Kazmi

..Applicant

Vs

The State of Maharashtra & Anr.

..Respondents

Mr. A.P. Mundargi, Senior Advocate i/b Mr. S.P. Borade for the Applicant.
Ms J.S. Lohkare, APP for the State.

CORAM : A.S.GADKARI, J.

DATE : 30th April 2019.

P.C.:

1] This is an application under Section 439 of Cr. P.C. for bail in CR No.355 of 2018 dated 9.10.2018 registered with Versova Police Station, Mumbai under Section 376(N), 323, 504 and 506(2) of the Indian Penal Code.

2] Heard the learned senior counsel for the applicant and the learned APP for the State. Perused the chargesheet.

3] The first information report is lodged by the prosecutrix aged about 29 years on the date of lodgment of the present crime. It is the prosecution case that, in the month of June 2012 after having acquaintance

with the prosecutrix on one day the applicant took the prosecutrix to his office and administered her stufiging substance from tea. That the applicant thereafter committed an act as contemplated under section 376 of Indian Penal Code with the prosecutrix. It is alleged that, sister of the applicant assisted him in the said act. It is the further prosecution that, thereafter the applicant gave promise to marry with the prosuecutrix and continued his physical relationship with the prosecutrix till October 2018. The applicant subsequently resiled from his promise and the present crime is thereafter registered.

4] Mr. Mundargi, the learned senior counsel for the applicant submitted that, after the relations between the applicant and the prosecutrix got soured, the present crime is registered. He submitted that, as a matter of fact the applicant was having relations with the prosuectirx and he had promised to marry her, however, in due course their relations were strained and the applicant did not continue with the said relations. He submitted that, it is a matter fact that, in the month of May 2018 the applicant along with the prosecutrix had been to abroad i.e. Cannes, France and stayed in same room in a hotel. He produced on record certain documents to that effect. He submitted that, the said contention is duly

corroborated by the version of the prosecutrix narrated in her supplementary statement dated 16.10.2018. He therefore submitted that, the applicant may be released on bail.

5] Perusal of the chargesheet would indicate that, there is substance in the submissions made by the learned senior counsel for the applicant. The prosecutrix in her supplementary statement dated 16.10.2018 admitted the fact that, she had been to Cannes, France in the month of May 2018 along with applicant to attend the Film Festival. The photographs and other documents produced on record prima facie support the contention of the learned counsel for the applicant that, the applicant was having an affair with the prosecutrix. It prima facie appears that, when their relation got soured, the present crime is registered. The applicant is in jail since 9.10.2018 and the police have already completed the investigation and submitted chargesheet. It is submitted that, there are no antecedents at the discredit of the applicant.

6] In view of the above, the applicant can be released on bail.

Hence the following Order:

i] Applicant be released on bail in CR No. 355 of 2018 registered with Versova Police Station, Mumbai, on his furnishing PR bond of

Rs.25,000/- with one or two solvent local sureties in the like amount.

ii] After his release from jail, the applicant shall attend all the dates before the Trial Court unless granted exemption by the concerned Court.

iii] Applicant shall not tamper with the evidence and/or influence the prosecution witnesses.

7] Application is allowed in the aforesaid terms.

8] In view of Order passed in Bail Application No.2927 of 2018, Criminal Application (APPP) No.1423 of 2018 for intervention does not survive and is accordingly disposed off.

(A.S.GADKARI, J.)