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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.346 OF 2021

Santosh s/o Bhagwat Khod

... **APPLICANT**

VERSUS

The State of Maharashtra

... **RESPONDENT**

.....
Shri S.J. Salunke, Advocate for applicant

Shri S.W. Munde, A.P.P. for respondent State. .

.....

CORAM : R. G. AVACHAT, J.
(VACATION COURT)

DATE : 28th MAY, 2021

PER COURT :

This is an application for bail under Section 438 of the Code of Criminal Procedure. The applicant apprehends arrest in connection with Crime No.39/2021, registered at Shivaji Nagar Police Station, Beed, for the offence punishable under Sections 376, 354, 354-C, 354-D, 341, 506 of the Indian Penal Code.

2. Heard Mr. Salunke, learned counsel for the applicant. Perused the First Information Report (F.I.R.)

lodged by the victim herself.

It is alleged in the F.I.R. that, the informant along with her husband and two children would reside at village Hajipur, Taluka and District Beed. In front of her house, there were two shop blocks. The applicant would run Agro Service Centre in one of the shop blocks. The applicant would visit the informant's house for taking water. As such, acquaintance developed between the two. In June 2019, the informant was alone home. She was taking bath. The applicant suddenly came her home and snapped video of her taking bath. He then threatened her of making the video viral. The applicant embraced the informant and then had sexual intercourse with her. It is further alleged that, thereafter many a times the applicant sexually exploited the informant under the threat of making the video viral. The informant kept mum with a view to avoid being defamed. After having fed up with the applicant's behaviour, the informant even changed her residence and shifted to a room at Pimpargavhan Road. The applicant, however, continued to sexually exploit the informant. On 4/1/2021, the applicant called the informant to a river side secluded place and had a sexual intercourse with her. On 28/1/2021, the applicant intercepted her way and

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threatened with dire consequences. The informant had, therefore, to share everything with her husband and then lodged the F.I.R.

3. The learned A.P.P. would submit that, the applicant sexually exploited the destitute woman. Custodial interrogation of the applicant is required for recovery of the cell phone. The offence is serious one. He, therefore, urged for rejection of the application.

4. Learned counsel for the applicant would, on the other hand, submit that, it is a consensual relationship. There is delay of over 17 days in lodging of the F.I.R. The applicant denied to have snapped video of the informant taking bath. The learned counsel ultimately urged for grant of the application.

5. I have considered the submissions made by learned counsel. Perused the F.I.R. and the related papers. It appears to be a case of consensual relationship. The informant is a married woman. She admittedly had first sexual encounter with the applicant way back in June 2019. Last such incidence took place on 4/1/2021. As such, there is

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delay of little over one and half year in lodging the F.I.R. after the first alleged incident whereas there is delay of about one month in lodging the F.I.R. after the last such incidence. The applicant filed a petition for quashment of the F.I.R. The informant filed an affidavit stating therein to have settled the matter and not to interfere with each other's life. She is, however, said to have gone back on her affidavit. Be that as it may. It happens to be a case of consensual relationship. I am, therefore, inclined to allow the application. Hence the order :-

ORDER

(i) The application is allowed. In the event of arrest of the applicant in connection with Crime No.39/2021, registered at Shivaji Nagar Police Station, Beed, for the offence punishable under Sections 376, 354, 354-C, 354-D, 341, 506 of the Indian Penal Code, the applicant shall be released on bail on his executing P.R. bond in the sum of Rs.15,000/- (Rupees fifteen thousand) with one surety in the like amount.

(ii) The applicant shall present himself for medical examination as and when required by the investigating officer.

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(iii) The applicant shall appear before the investigating officer as and when required. The applicant shall not tamper with the prosecution evidence.

(iv) The applicant shall surrender his cell phone to the investigating officer within a week.

**(R. G. AVACHAT)
JUDGE**

fmp/-