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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2779 OF 2021**

Haripal Rambhavan Gautam

....Applicant.

V/s

The State of Maharashtra

.....Respondent

Mr Sanjay D. Gaikwad for the Applicant.

Mr. M.G. Patil, APP for the Respondent/State.

CORAM: NITIN W. SAMBRE, J.

DATE: OCTOBER 07, 2021

P.C.:-

1] Applicant was arrested on 1/3/2021 in C.R. No.I-42 of 2021 registered with Uttan Sagari Police Station for the offence punishable under Section 376(1) of the Indian Penal Code and is chargesheeted.

2] Submissions of learned Counsel for the Applicant based on prosecution story are, victim got befriended with mother of the Applicant when both were taking some ritualistic treatment in some Durga in Uttar Pradesh and as such, they developed intimacy which turned into love affair with promise of marriage. It is claimed that on 1/3/2021, Applicant committed offence of rape for which FIR came to be lodged on 10/3/2021. Counsel for the Applicant would urge that

victim is suffering from skin disease and some psychiatric ailment, which was noticed by the Applicant at later stage. As such, he has backed out from the promise of marriage, which has resulted into his false implication in the crime. By relying on documentary evidence, he would urge that it can be inferred from record that Applicant is falsely implicated.

3] Mr. Patil, learned APP, while opposing the prayer for bail, would urge that statement of victim and what has been stated in supplementary statement is sufficient enough to infer that victim has suffered sexual offence at the behest of the Applicant and support to that effect can be drawn from medical record. Further contentions are, Applicant, since resides in very same vicinity, is likely to influence the complainant and her family members and that being so Application is liable to be rejected.

4] Considered submissions.

5] The statement of victim was recorded on 10/3/2021 which is treated as FIR wherein, in the background of the love affair, promise

to marriage and backing out from such promise and sexual assault are allegations. The incident claimed to have occurred on 1/3/2021 and FIR came to be lodged on 10/3/2021 i.e. after about nine days for which there is no convincing explanation on record. Perusal of medical report rather speaks of victim's narration to the doctor that after aforesaid sexual assault victim had been to the Applicant on 3/3/2021 and quarreled with him on the issue of backing out from promise of marriage. As such, from 3/3/2021 till 10/3/2021 victim remained silent without any action against the Applicant, which issue is required to be considered to the detriment of the prosecution. Apart from above, it could be inferred from record that victim was in touch with mother of the accused. However, once the Applicant has not denied promise to marry and backing out from such promise, the said issue, in my opinion, will have hardly any bearing over merits of the matter. Applicant is already subjected to custodial interrogation and is chargesheeted. Final report from Forensic Science Laboratory is yet to be received and trial is like to take substantial period. Applicant therefore deserves to be released on bail.

6] Applicant is directed to be released on bail in C.R. No.I-42 of

2021 registered with Uttan Sagari Police Station for the offence punishable under Section 376(1) of the Indian Penal Code on his executing P.R. Bond in the sum of Rs 25,000/- with one or more sureties in the like amount. Applicant shall neither tamper with the evidence nor try to directly or indirectly influence the prosecution witnesses. Applicant shall not establish contact with the victim and her family members. Applicant shall stay away from the jurisdiction of the said Police Station till the charge is framed.

(NITIN W. SAMBRE, J.)