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

**ANTICIPATORY BAIL APPLICATION NO. 2455 OF 2021**

VILAS MADHUKAR GAIKWAD

....APPLICANT

V/s.

THE STATE OF MAHARASHTRA

.....RESPONDENT

Ms. Niyati Sontakke a/w Mr. Amey Deshpande a/w Mr. Harsh Nishar  
advocate for the applicant

Mr. A. R. Kapadnis APP for the State

**CORAM : NITIN W. SAMBRE, J.**

**DATE: 12<sup>th</sup> OCTOBER, 2021.**

**P.C.:**

1] Applicant is seeking pre-arrest bail in C.R. No. 880 of 2021 registered with Mumbra Police Station for offence punishable under Sections 376, 323, 506 r/w 34 of the Indian Penal Code and under Sections 67 and 67A of the Information Technology Act.

2] Prosecution case against the applicant is, applicant promised to marry the complainant and sexually exploited her. As such, offence in question.

3] Learned counsel for the applicant Ms. Niyati Sontakke would urge that perusal of F.I.R. speaks of consensual relationship between the parties for a long standing period for more than 13 years. She would further claim that such relationship is with the consent of other family members as can be inferred from the contents of the F.I.R. As such, according to her, the very ingredients of Section 376 of the Indian Penal Code are not made out.

4] Learned APP submits that application is liable to be rejected as the offence is punishable with life imprisonment.

5] Considered submissions.

6] Complainant herself has come out with a case that she had physical relations with the applicant since more than last 13 years. It is further claimed that such relationship was well within the knowledge of her other family members viz. brother, sister etc.

7] Perusal of F.I.R. would depict that complainant voluntarily consented for having physical relation with the applicant. In that view, the very ingredients of Section 376 of the Indian Penal Code cannot be inferred against the applicant at its face value.

8] Learned counsel for the applicant submits that applicant undertakes to surrender his mobile phone to the Investigating Officer. Statement is accepted as an undertaking to this Court.

9] In the aforesaid background, case for grant of bail is made out.

(i) Applicant be released on bail in C.R. No. 880 of 2021 registered with Mumbra Police Station for offence punishable under Sections 376, 323, 506 r/w 34 of the Indian Penal Code and under Sections 67 and 67A of the Information Technology Act upon furnishing P.R. bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.

(ii) Applicant shall neither influence witnesses in any manner nor tamper with evidence.

(iii) Applicant shall not try to contact the complainant, directly or indirectly.

(iv) Applicant shall cooperate the Investigating Officer in collecting blood samples, medical examination etc.

10] Application stands disposed of.

**[NITIN W. SAMBRE, J.]**