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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
BAIL APPLICATION NO.4388 OF 2021

Satish Vyankoji Vijapure .. Applicant

Versus

The State of Maharashtra .. Respondent

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Ms.Anjali Patil with Ms.Mallika Sharma for the Applicant.

Mr.S.V.Gavand, A.P.P. for the State/Respondent.

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CORAM: BHARATI DANGRE, J.

DATED : 19th JULY, 2022

P.C:-

1. The applicant came to be arrested on 20/10/2021 in connection with the C.R. which invoke Sections 323, 328, 376, 420, 504, 506(2) of the I.P.C. At present, he is incarcerated in Arthur Road Central Prison and seeks his release on bail.

2. The prosecutrix, who is aged 35 years, reported to the police station that she was working as T.C.. On 26/06/2014, she received a message on Facebook from the applicant. They being introduced to each other, exchanged their mobile numbers and remained in contact with one another on phone.

Thereafter, they met in person and the applicant proposed her for marriage, by giving an impression that they will solemnize the marriage, after six months.

3. The narration of the prosecutrix is to the effect that she started trusting the applicant and since, he was in need of money, she used to arrange for the amount from time to time. The payment made by her to the applicant from March 2015 to February 2020 has been alleged to be Rs.7,47,580/- in form of cash. Further, the prosecutrix has also stated that she transferred various amounts in the name of his friends by Google-pay and this amount is to the tune of Rs.88,000/-.

The prosecutrix allege that she parted with the sum of Rs.24,00,000/- from time to time to the applicant and accused him of being abusive. When she insisted for performance of marriage, it was revealed to her that he was already married at the insistence of his father, but he assured her that he would divorce his wife.

4. It is alleged that on 29/02/2020, by spiking her drink, he committed sexual intercourse with her and when the prosecutrix confronted him about the said act, he apologized to her. She further narrate that she continued to render financial assistance to him. On 03/02/2021, one woman called her and

informed her that the applicant had established physical relationship with her and she has also paid money to him. The prosecutrix then realized that the applicant had defrauded her and she was made to part with Rs.24,00,000/- and was also subjected to forcible sexual intercourse on 29/02/2020. This resulted in lodging of the complaint, invoking the offence of rape alongwith the offence of cheating against the applicant.

5. Learned counsel Ms.Anjali Patil has invited my attention to a complaint dated 14/06/2021 filed by the present applicant with Sr.P.I., Dharavi, Mumbai where the applicant has levelled accusations against the prosecutrix and he alleged that the prosecutrix was forcing him for performance of marriage and she had forced him for establishing sexual relationship under the threat that she will commit suicide. A reference is also made to a loan amount obtained from a jeweller to the tune of Rs.1,50,000/- and the applicant repaid the said loan and receipts to that effect were also tendered. It was also alleged that the prosecutrix was forcing him to perform marriage by divorcing his legally wedded wife.

Alongwith the said complaint, an affidavit-cum-declaration, under the signature of the prosecutrix dated 14/02/2021, is also placed on record. The said undertaking

refers to a gold necklace, being given to the applicant, which was mortgaged with Ambika Jewellers and it is recorded that the applicant had returned the gold necklace from the said jeweller to the prosecutrix.

The deposit receipts and several transactions are also placed on record.

6. The prosecutrix, aged 35 years, is capable of understanding the consequences of her act and accused the applicant that he has obtained money from her on various occasions and has cheated her. In contrast, prior to lodging of the complaint, the applicant himself had reported to the Senior P.I., Dharavi Police Station through his counsel, about the misdeeds of the prosecutrix and his complaint is prior in point of time.

7. In any case, the charge-sheet has been filed on completion of investigation and further, judicial custody of the applicant becomes unnecessary. The applicant is arrested on 20/10/2021 and he faces the accusations spread over for a period of 7 years, preceding the said complaint. The relationship shared by the two has clearly surfaced in the charge-sheet. Whether the amount advanced by the prosecutrix to the applicant, is by playing fraud, would be a

matter of trial. The applicant, therefore, deserve his release on bail. Hence, the following order.

: ORDER :

- (a) Application is allowed.
- (b) Applicant - Satish Vyankoji Vijapure shall be released on bail in connection with C.R.No.770 of 2021 registered with Dharavi Police Station on furnishing P.R. Bond to the extent of Rs.25,000/- with one or two sureties of the like amount.
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with facts of case so as to dissuade him from disclosing the facts to Court or any Police Officer. The Applicant should not tamper with evidence.
- (d) The applicant shall mark his attendance before the Investigating Officer on first Monday of the month, till framing of charge.
- (e) The applicant shall not establish contact with the prosecutrix, either personally or through any other mode of contact and shall not threaten her in any manner.

(SMT. BHARATI DANGRE, J.)