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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

BAIL APPLICATION NO.2062 OF 2022

Kshitij Ravindra Satpute
Age – 32 years, Occ – Service
R/o Flat No. 201, Building No.B,
Near Sudarshan Building
Amravati 444606

APPLICANT

VERSUS

The State of Maharashtra
(Through Jawahar Nagar Police
Station, Aurangabad)

RESPONDENT

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Mrs. Rashmi Kulkarni h/f Mr. P. P. Giri, Advocate for the applicant
Mr. A. A. Jagatkar, APP for respondent - State
Mr. Kuldip Kahalekar, Advocate for informant

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[CORAM : NITIN B. SURYAWANSHI, J.]

RESERVED ON : 6th JANUARY, 2023
PRONOUNCED ON : 10th JANUARY, 2023

ORDER :

1. By this application, filed under section 439 of the Criminal Procedure Code, the applicant seeks bail in Crime No. 194 of 2022 registered with Jawahar Nagar Police Station, Aurangabad for offence punishable under sections 406, 498A, 323, 377 504, 506, of the Indian Penal Code.

2. The FIR is lodged by wife of the applicant on 4th August, 2022 alleging that she is serving as Software Engineer at Tata Consultancy Services, Mumbai. Her marriage with the applicant was solemnized on 27th November, 2015. Her parents spent Rs.20 lakhs in the marriage and gave gold ornaments and household articles. The applicant was working as Software Engineer at Mumbai. In April, 2016, the applicant pressurized her to bring money from her parents to purchase a flat at Pune. Her parents gave Rs. 25 lakhs. A flat was purchased in joint name of the applicant and the informant. In the year 2016, the informant learnt that the applicant is addicted to porn websites and was insisting the informant to do similar activities. After watching the porn videos, the applicant used to repeat similar acts with the informant. She requested him to stop watching porn sites, but he continued watching the same. In December, 2018, the informant was required to go to Uruguay for job. The applicant also went there on dependent visa. There also the applicant forced the informant to indulge in obscene acts and unnatural sex. The applicant used to pressurize the informant saying that if she did not accede to the demands of the applicant, he will defame her by telling her parents that she has extramarital relations. The informant was fed up with the

physical and mental harassment given by the applicant and, therefore, she told her in laws and parents that she cannot cohabit with the applicant. They decided to part ways and obtain divorce by mutual consent. The flat at Pune was transferred in the name of the informant by executing gift deed. The informant paid an amount of Rs.11,24,422/- by cheques for settlement. When the informant asked the applicant about maintenance amount, the applicant flatly refused to pay the maintenance. He threatened the informant that he will upload her nude photos and private videos on porn sites. It is further alleged that gold ornaments and articles given by her parents in the marriage are kept by the applicant. On the basis of this FIR, present crime is registered.

3. The applicant was arrested on 18th November, 2022. The applicant, therefore, seeks regular bail.

4. Heard learned advocate for the applicant, learned Additional Public Prosecutor for the State and the learned advocate for the informant. Perused the papers of investigation.

5. Learned advocate for the applicant submitted that the informant has obtained gift deed from the applicant on 2nd March, 2022, till then she had no intention to make such

allegations. Since, one of the cheques, given by the informant to the applicant was dishonoured, due to stop payment instructions issued by the informant and the applicant issued notice under section 138 of the Negotiable Instruments Act as the applicant filed divorce petition making allegations of extramarital relations of the informant, afterthought, present FIR is lodged. She submits that the FIR is lodged on 4th August, 2022 and in the supplementary statement recorded on 20th October, 2022, for the first time, the informant has made allegations that the applicant has committed offence punishable under section 377 of the Indian Penal Code. Further submission is that even prior to arrest, the applicant has attended the police station as and when called by the Investigating Officer and has co-operated in the investigation. The applicant is behind bars since more than one and half months. The applicant has no criminal antecedents and the applicant may lose his job as Software Engineer in Multinational Company at Mumbai, if he is not released on bail.

6. Learned Additional Public Prosecutor, on the other hand, opposed the bail application contending that there are serious allegations against the applicant. Ornaments so also two other cell phones are yet to be recovered from the applicant. Therefore, the applicant does not deserve to be released on bail.

7. Learned advocate for the informant submits that the applicant has committed offence punishable under section 377 of the Indian Penal Code. The allegations made against him are serious and he has given threats that he would upload informant's private videos and photographs on porn sites. He submits that the police authorities are helping the applicant and have not conducted proper investigation. It is submitted that though a detail written FIR was lodged by the informant, the police have recorded a cryptic FIR, deleting serious allegations made against the applicant. He also submits that the informant was constrained to forward representation to the Commissioner of Police making grievance about the approach of the police in registering cryptic FIR. It is, therefore, urged not to release the applicant on bail.

8. As per allegations in the FIR, the offence has taken place between 5th May, 2016 and 20th June, 2021 and the FIR is lodged on 4th August, 2022. Before lodging of the FIR, admittedly, the applicant and the informant agreed to part their ways and obtain divorce by mutual consent. Pursuant to said agreement, gift deed in respect of the flat was executed in favour of the informant on 2nd March, 2022. It appears that, as mentioned in the gift deed, four cheques of total amount of Rs.11,24,422/-

were given by the informant to the applicant and the last cheque is bounced because of the stop payment instructions issued by the informant. The applicant has issued notice under section 138 of the Negotiable Instruments Act to the informant.

9. The applicant has filed divorce proceedings at Amaravati, alleging that the informant has extramarital relations. It is further clear from the record that the informant, for the first time, in her supplementary statement, recorded on 20th October, 2022, has alleged that the applicant has committed offence punishable under section 377 of the Indian Penal Code. The informant has refused to undergo medical examination.

10. After arrest on 18th November, 2022, the applicant was remanded to police custody for three days. One cell phone and laptop is recovered from him. After three days' police custody, magisterial custody was sought by the Investigating Officer and the same was granted on 21st November, 2022. In this view of the matter, the submission of the learned Additional Public Prosecutor that for recovery of cell phones, custody of the applicant is necessary, is unacceptable. There is nothing on record to indicate that the Investigating Officer had sought further police custody of the applicant for such recovery. The investigation appears to be almost complete.

11. *Prima facie*, there appears substance in the contention of the applicant that though the applicant and the informant decided to part ways and file proceedings for divorce by mutual consent, said decision could not be materialized and as the applicant issued statutory notice under section 138 of the Negotiable Instruments Act and filed divorce petition making allegations of extramarital relations against the informant, afterthought, present FIR is lodged.

12. The applicant is permanent resident of Amaravati and is in service in Multi National Company at Mumbai as Software Engineer. The applicant has deep roots in the society and if released on bail, he is not likely to abscond. He will be available for trial. Chargesheet is yet to be filed and the trial will take considerable time. The applicant is in custody since 18th November, 2022 and no useful purpose would be served by further detention of the applicant in the custody.

13. For the aforesaid reasons, the application is allowed. The applicant be released on bail in Crime No. 194 of 2022 registered with Jawahar Nagar Police Station, Aurangabad for offence punishable under sections 406, 498A, 323, 377, 504, 506 of the Indian Penal Code on executing Personal Bond of Rs.25,000/-

with one surety in the like amount. The applicant shall not, in any manner, influence the prosecution witnesses and / or tamper prosecution evidence. The applicant shall not leave India without prior permission of the Trial Court.

[NITIN B. SURYAWANSHI]
JUDGE

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