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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.653 OF 2023

Hariom Prakash Upadhyay] .. Petitioner
vs.
State of Maharashtra & Anr.] .. Respondents

Mr.A.K. Shukla a/w R.K. Tiwari, for the Petitioner.

Mr.S.R. Agarkar, APP for the State.

CORAM : BHARATI DANGRE, J

DATE : 25th October, 2023.

P.C.

1] The present Writ Petition is filed, being aggrieved by the order dated 21.09.2022 passed by the Additional Sessions Judge, Thane, who has refused discharge to the Petitioner in SC No.316/2020 arising out of CR No.81/2018, registered with Navghar Police Station.

2] Heard the learned counsel for the Petitioner and the learned APP for the State.

I have perused the charges sheet filed in the subject CR which invoked Section 376, 377, 323 of the IPC, with the entire material compiled in the charge sheet being collated during the course of investigation.

3] At the instance of the victim, the complaint came to be lodged on 04.05.2018, where she state that she is aged 18 and she being acquainted with the Petitioner, he assured her that he will arrange a job for her and a bond of friendship developed between them. Thereafter according to the victim herself, they used to visit different places and in this scenario, he proposed her. It is her version that he literally begged before her to be on friendly terms with her and he also expressed his desire to solemnize marriage with her.

It is her specific version that on this pretext, he forcibly committed sexual intercourse with her despite she strongly objecting for the same, and, thereafter, the incident was repeated on several occasions, since he threatened her that he would take his life, if she discontinued the relationship.

4] The statement of the victim girl refer to the various dates, where specific case is made out for multiple incidents of sexual intercourse.

A question whether her consent was free or was coerced on account of promise of marriage is a matter to be determined at the stage of trial.

This is this specific ground, on which the learned Sessions Judge has refused the discharge and finding no infirmity in the said order as ultimately when the victim has specifically stated that she had never

consented to the sexual indulgence and her consent was actuated by the promise of marriage, is a matter to be determined at the end of trial.

Hence, by upholding the impugned order the Writ Petition is dismissed.

[BHARATI DANGRE, J]