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

BAIL APPLICATION NO.359/2023

KAMLESH HARIRAM SUTAR

..APPLICANT

VS.

THE STATE OF MAHARASHTRA & ANR.

..RESPONDENTS

Adv. Pranot Pawar a/w. Adv. Mrunal Lad i/b. Maharashtra Law
Juris for the applicant.

Ms. Veera Shinde, APP for the State.

Adv. Priyanka H. Chavan for the respondent no.2.

CORAM : M. S. KARNIK, J.

DATE : OCTOBER 11, 2023.

P.C. :

1. Heard learned counsel for the applicant and learned
APP for the State.

2. This is an application for bail in respect of the offence
punishable under Sections 376(2)(n), 420, 419, 406, 506,
504 read with 34 of the Indian Penal Code (hereafter 'IPC'
for short) read with Section 66 (c) (d) of the Information and
Technology Act registered on 26/4/2022 vide C.R.
No.629/2022 with Kandivali Police Station.

3. The applicant and the prosecutrix got acquainted with
each other through Facebook. They know each other since

2019.

4. It is the case of the prosecutrix that on the false promise of marriage the applicant induced her into a sexual relationship since the year 2019. Learned counsel for the prosecutrix submitted that apart from the false pretext of marriage, the applicant has cheated the prosecutrix into parting with huge sums of money amounting to Rs.55,85,138/-. The applicant has failed to return the money despite assuring her time and again.

5. Learned counsel for the applicant submitted that an amount of Rs.2 lakh has been returned. The parties disputed the quantum. These are matters to be adjudicated before the proper forum in appropriate proceedings.

6. Suffice it to observe, to show the applicant's bonafide, learned counsel for the applicant on instructions of the applicant's brother makes a statement that the applicant would pay to the prosecutrix a sum of Rs.2 lakhs prior to his release on bail. The bank account details to be provided by the prosecutrix to the applicant forthwith. Learned counsel for the applicant is being instructed by the applicant's brother. Further, an affidavit has been filed on behalf of the

applicant that a sum of Rs. 25 lakhs would be paid to the prosecutrix within a period of six months from the date of his release on bail. Statement is accepted as an undertaking to this Court.

7. Since the applicant has now made a statement that the amount of Rs.2 lakh will be paid before his release, in terms of the affidavit filed, the applicant to pay in this Court Rs.23 lakhs to the prosecutrix within six months from the date of his release on bail.

8. Learned counsel for the prosecutrix submitted that the amount that the applicant owes to the prosecutrix is much more. The prosecutrix is disputing the sum of Rs.25 lakhs as stated by the applicant. The affidavit is taken on record without prejudice to the rights and contentions of the parties. It is not open for me to decide the dispute about the quantum in these proceedings, neither is this a recovery proceeding.

9. *Prima facie*, the relationship appears to be consensual. The applicant is in custody for more than one year and one month with no possibility of the trial concluding any time soon. The investigation is complete. The charge-sheet has

been filed. There are no criminal antecedents reported against the applicant. The applicant does not appear to be a flight risk. Any further incarceration can only be by way of a pre-trial punishment.

10. In the facts and circumstances of the case and in view of the affidavit filed, I am inclined to enlarge the applicant on bail. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant- Kamlesh Hariram Sutar in connection with C.R. No.No.629/2022 registered with Kandivali Police Station, shall be released on bail on his furnishing P.R. Bond of Rs.25,000/- with one or more sureties in the like amount.
- (c) The applicant is permitted to furnish cash bail surety in the sum of Rs. 25,000/- for a period of 6 weeks in lieu of surety.
- (d) The applicant shall attend the Investigating Officer of Kandivali police station once in three months on every first Monday of the concerned month between 11.00 a.m. and 1.00 p.m. commencing November, 2023, till the trial concludes.

(e) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing the facts to Court or any Police Officer. The applicant shall not tamper with evidence.

(f) On being released on bail, the applicant shall furnish his contact number and residential address to the Investigating Officer and shall keep him updated, in case there is any change.

(g) Except for attending the trial and for the purpose of reporting to the Investigating Officer, the applicant shall not enter the jurisdiction of the Kandivali Police Station after being released on bail, till the trial concludes.

(h) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall not seek unnecessary adjournments.

(i) The applicant shall surrender his passport, if any, to the investigating officer.

11. The application is disposed of.

12. I express my gratitude for the able assistance rendered by the advocate Ms. Priyanka H. Chavan representing the prosecutrix.

(M. S. KARNIK, J.)