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

BAIL APPLICATION NO.727 OF 2023

Saudagar Maruti Londhe	... Applicant
V/s.	
The State of Maharashtra & Anr.	... Respondents

Mr.Amol Jagtap, for the Applicant.

Mrs. Veera Shinde, APP for State-Respondent.

Ms.Vilasini Balasubramanian, for Respondent
No.2(appointed as legal-aid).

Mr. Pramod Hambir, PSI, Loni Kalbhor police station.

CORAM : AMIT BORKAR, J.

DATED : JULY 25, 2023

P.C.:

1. This is an application filed under Section 439 of the Code of Criminal Procedure, 1973, (for short 'Cr.PC.') in connection with C.R. No.355 of 2022 registered with Loni Kalbhor police station, for offences punishable under Sections 376, 376,(2)(n), 354, 354(B), 326, 327, 504, 506 of the Indian Penal Code (for short 'IPC').

2. According to prosecution, it was alleged that, on 24 June 2022, during early morning hours, applicant with intend to disrobe informant, beat her, pressed her mouth with hand and when she strongly resisted, hit her with stone used. Thereafter, took mobiles of informant and her husband and cash of Rs.60,000/-, he left

house. Accordingly, investigation was done and charge-sheet also filed. Thereafter, supplementary statement as well as statement under Section 164 of Cr.P.C. of informant was recorded. As per supplementary statement, informant stated that, on 24 June 2022, the applicant raped her prior to assault her and she did not tell about it to save from defamation. Accordingly, section 376 and 307 of IPC was added and applicant was arrested for investigation to that regard. The investigation is still going on and supplementary charge-sheet is yet to be filed.

3. I have heard learned Advocate for the applicant, learned APP and appointed Advocate to represent the victim.

4. Learned Advocate for the victim invited my attention to the photographs to indicate that the victim was assaulted causing grievous injuries. According to her, the victim has furnished explanation for delay in lodging report as regards Section 376 of IPC. The delay was due to relationship of victim and her father-in-law and loss of reputation. She, therefore, submitted that the conduct of father-in-law does not deserve relief from this Court.

5. On perusal of record, it appears that initial report lodged by the victim, was under Sections 354, 354(B), 326, 327, 504, 506 of IPC. Learned Judicial Magistrate First Class (JMFC) by order dated 11 July 2022 released the applicant on bail. Thereafter, on 28 September 2022, supplementary statement of victim was recorded. Based on the said statement, Section 307 and 376 were added. The applicant was arrested on 2 November 2022.

6. It also appears that in the first report, lodged immediately

after the incident, the victim has not stated anything about allegations of rape. The father-in-law was named in that report. Allegations of assault were also made against the applicant. However, allegations of offence under Section 376 are conspicuously absent. The supplementary statement was recorded only after the applicant was released on bail on 11 July 2022. Therefore, possibility of false prosecution cannot be ruled out. However, the Trial Court needs to adjudicate the alleged role played by the applicant during trial. Considering date of arrest i.e. 2 November 2022 and stage of trial i.e. charges are not yet framed, it is unlikely that the trial shall be over in near future. The applicant, therefore, entitled to be released on bail. Hence, following order is passed:

- a) The application is allowed.
- b) The applicant Saudagar Maruti Londhe be released on bail in connection with C.R. No.355 of 2022 registered with Loni Kalbhor police station, for offences punishable under Sections 376, 376,(2)(n), 354, 354(B), 326, 327, 504, 506 of IPC on furnishing PR. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- c) The applicant shall mark his attendance with the concern police station once in six months till conclusion of trial.
- d) The applicant shall remain present before the trial Court on each date unless specifically exempted by the Trial Court.

7. The bail application stands disposed of in above terms. No costs.

(AMIT BORKAR, J.)