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

BAIL APPLICATION NO.980 OF 2022

Gurunath Ladu Jalvi

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Sunny Waskar with Mr. Dilip gupta, and Mr. Shamish Marwadi i/b.
Mr. Manish Kanojia for the Applicant.

Ms A.A. Takalkar, APP for the Respondent -State.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED : 28th APRIL, 2023.

P. C. :-

1. This is an application under under Section 439 of the Cr.P.C. filed by the aforesaid Applicant, who is facing trial in Sessions Case No.132 of 2020 pending on the file of learned Additional Sessions Judge, Greater Bombay. The said cases arises from C.R. No.238 of 2019 registered with Meghwadi Police Station, Mumbai for the offences punishable under Sections 323, 365, 376, 500, 506 and 509 r/w 34 of the IPC.

2. Heard Mr. Waskar, learned counsel for the Applicant and Ms Takalkar, learned APP for the Respondent -State. I have perused the records and considered the submissions advanced by the learned

counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by the prosecutrix. The prosecutrix was married in the year 2003 and had obtained divorce within a period of six months. She thereafter married another person by name Jishan Shaikh. She has three children from the said wedlock. The prosecutrix has alleged that she left her matrimonial home in the year 2015 and started staying separately in the neighbourhood of her mother. It is alleged that since her second husband used to visit her and abuse her, she left the said residential premises in the year 2018 and started spending nights in auto riksha. The prosecutrix claimed that she was running a food stall and that she got acquainted with the Applicant. She states that sometime in January 2018 the Applicant had forcible sexual relationship with her. He has assured her that he would marry her and they got married on 30/11/2018. The prosecutrix lodged the FIR on 15/11/2019 alleging that she has been assaulted, raped and cheated by the Applicant.

4. The records prima facie indicate that the Applicant and the prosecutrix were living together and their relationship was consensual.

Hence, essential ingredients of offence under Section 375 of the IPC are not made out. It is stated that charge is not yet framed and trial is not likely to commence soon. Under the circumstances, this is a fit case for grant of bail. Hence, the application is allowed on the following terms and conditions:-

- (i) The Applicant, who is facing trial in Sessions Case No.132 of 2020 pending on the file of learned Additional Sessions Judge, Greater Bombay, is ordered to be released on cash bail in the sum of Rs.25,000/- for a period of four weeks;
- (ii) The Applicant shall within the said period of four weeks furnish PR bonds in the sum of Rs.25,000/- with one or two sureties to the like amount;
- (iii) The applicant shall not tamper with the evidence or attempt to influence or contact the complainant, witnesses or any person concerned with the case ;
- (iv) The Applicant shall keep the Trial Court informed of his current address and mobile contact numbers and/or change of residence or mobile

details, if any, from time to time;

(v) The Applicant shall co-operate with the conduct of the trial and attend the trial Court on all dates.

5. The application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)