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

BAIL APPLICATION NO.2609/2022

DIPAK UTTAM WAGHMARE

..APPLICANT

VS.

THE STATE OF MAHARASHTRA

..RESPONDENT

Adv. Dilip Shinde a/w. Adv. Rahul Shinde for the applicant.
Ms. P. N. Dabholkar, APP for State.
PSI Mangesh Kadam, Oshiwara Police Station.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 1, 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 Section 376(2)(n) of the Indian Penal Code (hereafter 'IPC' for short), registered vide First Information Report (FIR) No.463/2020 with Oshiwara Police Station.

3. The FIR was registered by the prosecutrix on September 29, 2020. At the relevant time, the age of the prosecutrix was 27 years. It is alleged by the prosecutrix that sometime in 2019, the applicant befriended her on Facebook. Thereafter, sometime in March, 2020, the

applicant visited the residence of the prosecutrix. On the pretext that the applicant would marry the prosecutrix, the applicant had sexual relationship with the prosecutrix. After a few months, the prosecutrix realized that the applicant does not intend to marry her and thereafter, in fact, flatly refused to marry her. From the materials on record, prima facie, it appears that the relationship between the parties was consensual in nature. Whether such a relationship is an outcome of promise to marry is the subject matter of trial.

4. The applicant is in custody for more than a year. At the relevant time, the applicant was working as a Constable in the SRPF.

5. A writing dated October 3, 2020 signed by the prosecutrix is produced on record she does not wish to prosecute the complaint made by her before the police. The applicant's marriage was solemnized on November 27, 2020 with some other woman.

6. Considering that the applicant is in custody for more than one year with the possibility of the trial concluding any time soon appearing to be remote, the applicant can be released on bail. There are no criminal antecedents reported

against the applicant. The applicant does not appear to be a flight risk and he would be available for the trial. The investigation is complete. The charge-sheet has been filed. Hence the following order.

ORDER

- (a) The application is allowed.
- (b) The applicant-Dipak Uttam Waghmare in connection with FIR No.463/2020 with Oshiwara 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 provisional cash bail security in the sum of Rs.25,000/-, for a period of six weeks, in lieu of surety.
- (d) The applicant shall report to the Investigating Officer of the concerned police station once in two months on every first Monday between 11.00 a.m. and 1.00 p.m.
- (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.

7. The application is disposed of.

(M. S. KARNIK, J.)