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

BAIL APPLICATION NO. 2391 OF 2022

Nitin Ramesh Ballal ..Applicant
VS.
The State of Maharashtra and anr. ..Respondents

Mr. Satish Borolkar a/w Mr. Manoj Patil i/b Mr. Siddhesh Borulkar, for the Applicant.
Ms. Grishma N. Lad, for Respondent No. 2.
Ms. A. A. Takalkar, APP for the State.
Mr. Aniket Raosaheb Kasar, Assistant Inspector of Police, Kherwadi Police Station present.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 8, 2023

P.C. :

1. Heard learned counsel for the applicant and learned APP.
2. This is an application for bail in respect of C.R.No. 350 of 2022 dated 27/04/2022 registered with Kherwadi Police Station, Bandra for the offence punishable under sections 376, 376(2)(n), 354, 354D, of the Indian Penal Code and under sections 8 and 12 of Protection of Children from Sexual Offences Act, 2012.

3. The FIR is dated 27/04/2022. At the time of registering of the FIR, the complainant was 26 years of age. It is alleged that the complainant and the applicant were neighbours. The applicant was married. At the relevant time in the year 2012, the complainant was around 16 years of age. It is alleged that taking advantage of the complainant being a minor, the applicant who was then 31 years of age, handed over to her a mobile phone and developed intimacy with her. It is further alleged that the applicant had informed about his marriage and promised the complainant that he would soon marry her after seeking divorce from his wife. The complainant was aware that the applicant was a married person. The relationship continued for years together. The applicant then persuaded the complainant to get married. The complainant's marriage was fixed with Mr. 'M'. However, the applicant told the complainant that he would commit suicide if she marries Mr. 'M' and promised that he would marry her after seeking a divorce from his wife. The complainant therefore called off her marriage with Mr. 'M', This was sometime in February

2022. It is then stated that sometime prior to the filing of the FIR on 27/04/2022, the applicant was not responding to her phone-calls and he started avoiding her.

4. There is gross delay in lodging the FIR. The relationship which the complainant had with the applicant when she was around 16 years of age continued till as recently as to the filing of the FIR. There is some material on record to indicate that the applicant was contemplating divorcing his wife and then marry the complainant. The charge-sheet has been filed and the investigation is complete. The trial is likely to take a long time to conclude. Considering the nature of the relationship between the complainant and the applicant which appears to be consensual and the delay in registering the FIR, the applicant can be released on bail subject to conditions. Hence, the following order.

ORDER

(a) The application is allowed.

(b) The applicant –Nitin Ramesh Ballal in connection with C.R.No. 350 of 2022 dated 27/04/2022 registered

with Kherwadi Police Station, Bandra shall be released on bail on furnishing P.R. bond in the sum of Rs.25,000/- with one or two 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 4 weeks in lieu of surety.

(d) The applicant shall not establish any contact with the complainant.

(e) Learned counsel for the applicant submitted that the applicant will reside outside the jurisdiction of Kherwadi Police Station till the trial is over. Statement is accepted.

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

(g) On being released on bail, the applicant shall furnish his contact number and residential address to the investigating officer of the concerned Police Station and shall keep him updated, if there is any change.

(h) The applicant shall report to the Investigating Officer as and when called.

5. The application is disposed of. I appreciate the assistance rendered by Ms. Lad, the learned Advocate, who appeared on behalf of the complainant.

(M. S. KARNIK, J.)