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

CRIMINAL APPEAL NO.61 OF 2024

AMIT GANGADHAR DUBEY

..APPELLANT

VS.

1. THE STATE OF MAHARASHTRA

2. XYZ

..RESPONDENTS

Adv. Ashok M. Saraogi for the appellant.

Ms. M. S. Bajoria, APP for the State.

Adv. Apoorva L. Thakre for respondent No.2.

Mr. Mahendra V. Chaudhari, API, Vitthalwadi Police Station.

CORAM : M. S. KARNIK, J.

DATE : FEBRUARY 23, 2024.

ORAL JUDGMENT :

1. Heard learned counsel for the appellant, learned APP for the State and learned counsel appointed by this Court for respondent No.2.

2. This is an appeal for setting aside the impugned order dated 21.12.2023 rejecting the bail application passed by the Additional Sessions Judge, Kalyan in connection with C.R. No.I-246 of 2023 registered with Vitthalwadi Police Station for the offences punishable under Sections 376(2) (n), 377, 323 and 504 of the Indian Penal Code and under

Section 3(1)(r)(s) of the Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereafter "Atrocities Act", for short).

3. The FIR is dated 03.09.2023. The prosecutrix at the time of registering of the FIR was 32 years of age. Sometime in the year 2014 the prosecutrix and the appellant were working in the same organisation. The appellant proposed a friendship. Later on the appellant proposed a love relationship. It is the allegation that the prosecutrix had informed the appellant that she belongs to the Scheduled Caste. The appellant expressed no reservation for such relationship on account of caste. The prosecutrix accepted the proposal for a love relationship. Sometime in February 2015, it is alleged that the appellant had sexual relations with the prosecutrix against her wishes. Such relationship continued from time to time. It is then alleged by the prosecutrix that sometime in the year 2019 the appellant made a show of getting married with the prosecutrix by executing a notarised document. According to the prosecutrix such a marriage cannot be said to be a

valid marriage. The parties therefore had agreed to register their marriage on 18.01.2023 before the Family Court. It is alleged by the prosecutrix that the appellant did not turn up. It is then that the prosecutrix realised that the appellant had cheated her. According to the prosecutrix, the sexual relations was under a misconception that the appellant was to marry her.

4. Though the appeal is opposed by learned APP and learned counsel for respondent No.2, *prima facie* it appears that the parties were in a consensual relationship from the year 2014 onwards right upto 2019 and even thereafter.

5. The appellant was arrested on 03.09.2023. The investigation is complete and the charge-sheet has been filed. Prolonging the custody of the appellant would amount to a pre-trial punishment. The applicant will face the consequences of the trial. There are no criminal antecedents reported against the appellant. In the facts and circumstances of the present case, I am inclined to enlarge the applicant on bail by imposing conditions. Hence, the following order :-

ORDER

- (a) The application is allowed.
- (b) The applicant-Amit Gangadhar Dubey in connection with C.R. No.I-246 of 2023 registered with Vitthalwadi 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 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.
- (e) 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.
- (f) The applicant shall not enter the jurisdiction of the police station where the offence has been registered till further orders of the trial Court.
- (g) The applicant shall attend the trial regularly. The applicant shall co-operate with the trial Court and shall

not seek unnecessary adjournments.

6. The application is disposed of.

7. I appreciate the valuable assistance rendered by Advocate Apoorva L. Thakre, who appeared on behalf of respondent No.2 in this proceeding. Her engagement may be regularized by the Maharashtra State Legal Services Authority.

(M. S. KARNIK, J.)