

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 528 OF 2017**

Tarun Sunil Roy

...Applicant

Versus

State of Maharashtra

...Respondent

Mr. Satyavrat Joshi for the Applicant

Mr. Rajan Salvi, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.
WEDNESDAY, 29th MARCH, 2017

P.C. :

1. Heard learned Counsel for the applicant and the learned A.P.P for the State.
2. By this application, the applicant seeks his enlargement on bail in connection with C.R. No. 36 of 2017 registered with the Yerawada Police Station, Pune, for the alleged offences punishable under Sections 376, 323, 504 and 506 of the Indian Penal Code.
3. Learned Counsel for the applicant submits that the complainant was aged 36 years and was a divorcee. He submitted that even the

applicant was a divorcee and that, both were in a live-in relationship from 2008 till filing of the complaint. He submitted that considering the nature of allegations, it cannot be said that the applicant had committed forcible intercourse with her against her wish.

4. Learned A.P.P has produced the 164 statement of the complainant.

5. Perused the papers. From a perusal of the statement of the complainant (prosecutrix), it appears that the applicant and the complainant met each other some time in 2007 and that, their acquaintance developed into a love affair. It appears that the applicant had met the family members of the complainant and that both the applicant and the complainant had expressed their desire to get married after the complainant got a divorce. It appears that from 2008, the applicant and the complainant were staying together in a rented premises and thereafter in a premises purchased by the complainant in Pune. According to the complainant, when they were living together, the applicant promised her marriage and had intercourse with her. She has further stated that thereafter the applicant started demanding

money from her and had even assaulted her on one such occasion. She has further stated that thereafter, they again started residing together in a live-in relationship and that in December, 2016, she became pregnant. According to the complainant, at the behest of the applicant, she aborted the child. She has further stated that on 3rd January, 2017, the applicant left home and did not return and neither did he reply to her calls. She has further stated that on 15th January, 2017, she saw the applicant along with another lady and when she questioned the applicant, he slapped her and the lady who was accompanying the applicant, verbally abused her. Pursuant to the same, the aforesaid complaint was lodged as against the applicant.

6. A perusal of the 164 statement of the complainant shows that the complainant is desirous of marrying the applicant and as such, does not wish to pursue her complaint, as she wants to live with the applicant. The applicant has been in custody since 31st January, 2017. The applicant and the complainant are both major and were in a live-in relationship which appears to have gone sour, pursuant to which, the aforesaid complaint has been lodged.

7. Considering the peculiar facts and circumstances of the case, the application is allowed. The applicant is enlarged on bail on the following term :

ORDER

(i) The applicant be enlarged on bail, on executing PR Bond in the sum of Rs. 10,000/- with one or two sureties in the like amount.

8. The application is allowed and is accordingly disposed of.

9. It is made clear that the observations made herein are *prima facie*, and the trial Court shall decide the case on its own merits, in accordance with law, uninfluenced by the observations made in this order.

10. All concerned to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.