

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1313 OF 2018
Rajesh S. Tripathy vs. The State of Maharashtra

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Shirish Gupte, Sr. Advocate i/by Prem Keswani for the
Applicant.

Mr. S.S. Hulke, APP for the Respondent-State.

CORAM : A.S.GADKARI, J.

DATE : 6th August, 2018

P.C.

1. The applicant was granted interim relief by an Order dated 6.7.2018.
2. Heard the learned Senior counsel for the applicant and the learned APP. Perused the record of investigation.
3. The record indicates that the applicant was having relations with the prosecutrix since the month of March, 2013 upto August 2016. The applicant though a married person by giving promise to marry with the prosecutrix established physical relations with her and subsequently refused to marry with her.
4. As per the statement of the prosecutrix, an offence under Section 376(2)(n) of the Indian Penal Code has been made out.

The prosecutrix was adult on the date of alleged first incident and on the date of lodgment of the crime she is 35 years of age. The learned Senior counsel appearing for the applicant submitted that, the alleged act as contemplated under Section 376 of the I.P.C. against the applicant was a consensual act between two adult persons. After perusing the record, I find substance in the contention of the learned counsel for the applicant and I find that the prosecutrix was a consenting party to the alleged offence under Section 376 of the Indian Penal Code. The record further indicates that, in pursuance of the order dated 6.7.2018 the applicant has attended the Investigating officer on stipulated dates and has joined the process of investigation.

5. In view of the above, for further investigation of the present crime the custodial interrogation of the applicant is not necessary.

Interim relief granted by Order dated 6.7.2018 is hereby confirmed however, the condition to attend the Investigating Officer is waived.

6. Application is allowed in the aforesaid terms.

(A.S.GADKARI, J.)