

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

**ANTICIPATORY BAIL APPLICATION NO.2008 OF 2017**

Atul Kushaba Kadam

... **Applicant**

**V/s.**

The State of Maharashtra

... **Respondent**

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Smt. Padma Tatode for the Applicant.

Mr. M.G. Patil, APP for the Respondent State.

Mr. Sushan K. for the Intervener.

**CORAM : A.S.GADKARI, J.**

**DATE : 22<sup>nd</sup> JUNE 2018**

**P.C.:**

1. By an order dated 08.01.2018 the applicant was granted interim relief.
2. Heard the learned counsel for the applicant, the learned counsel for the intervener and the learned APP. Perused the record of investigation.
3. The prosecutrix was aged about 34 years on the date of lodgment of the present crime. She is mother of 3 daughters, aged about 18 years, 15 years and 5 years respectively. It is the

prosecution case in brief that the applicant and the prosecutrix were knowing each other since the year 2008. That from 27.02.2014 till December 2015, it is alleged that the applicant by extending threat that, he has taken certain objectionable photographs of the prosecutrix on his mobile and will publish it, sexually exploited her. That in March 2017, the applicant showed the said photographs to the in-laws of the prosecutrix and thereafter the present crime is registered.

4. The learned counsel for the applicant submitted that, as a matter of fact, the applicant and the prosecutrix were in 'live-in-relationship' from February 2014 upto 2017 and were staying together. That due to the differences between them, they subsequently separated and in furtherance thereof, the present crime is registered. She, therefore, prayed that the applicant may be protected by pre-arrest bail.

The learned counsel appearing for the first informant and the learned APP opposed the application.

5. A perusal of the First Information Report and other statements of the witnesses would indicate that the prosecutrix was having relations with the applicant since February 2014 and the

same were initially continued upto December 2015. As per the record and as per the submissions made by the learned counsel for the applicant, the applicant and the prosecutrix were residing together in 'live-in-relationship' upto March 2017. Therefore, *prima facie* it appears that the prosecutrix was a consenting party to the alleged act as contemplated under Section 376 of the Indian Penal Code.

6. As far as the application of Section 66(e) of the Information Technology Act, 2000 is concerned, the police have already seized the mobile phone of the applicant and the same has been sent for Forensic Analysis and the report of the same is awaited.

7. In view thereof, the custodial interrogation of applicant for further investigation of present crime is not necessary. Interim relief granted by an Order dated 08.01.2018 is hereby confirmed.

8. Application is accordingly allowed.

**(A.S.GADKARI, J.)**