

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

CRIMINAL BAIL APPLICATION NO.3286 OF 2018

Shekhar B. Shirke
Vs.
State of Maharashtra

... Applicant

... Respondent

.....

Mr.Vineet Randhive a/w. Mr.Kunal Phoole, Advocate for the
Appliant.

Ms.A.A. Takalkar, APP for Respondent – State.

Mr.Ravindra Avhad, PI, Borivali Police Station, Mumbai.

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CORAM : PRAKASH D. NAIK, J.

DATE : JANUARY 31, 2019.

P.C.

This is an application for bail in connection with C.R.No.259 of 2018, registered with Kasturbamarg Police Station, Mumbai, for the offences punishable under Sections 376, 354(d) and 509 of Indian Penal Code (“IPC”, for short) read with Section 67(A) of Information Technology Act (“IT Act”, for short). Applicant was arrested on 27th May, 2018.

2 The case of the prosecution apparent from the First Information Report (“FIR”, for short) dated 27th May, 2018, is that the complainant is the divorcee having one son out of her marriage. Complainant and applicant came to know each other in October 2012, through Matrimonial site. Thereafter, they fell in

love with each other and decided to marry. In January 2013, they started residing together. Complainant was insisting for marriage, but, the accused kept on evading it on the ground that he is not yet financially settle. They had physical relationship. In July 2013, the complainant started residing on rental apartment in Virar along with her son. The applicant used to visit the said place and had physical relationship with the complainant. Complainant then started residing with her parents. Subsequently, accused kept on threatening her stating that he would reveal their affair in her office. Between 2015 to November 2017, the applicant used to take the complainant to a lodge and kept physical relationship with her. In December 2017, the accused took another apartment on rented basis. Thereafter, he started avoiding her. There was quarrel between them. Accused made video call to the complainant. He also sent some objectionable photographs of the complainant to her. The photographs were allegedly sent to the complainant's sister. On completing investigation, charge - sheet is filed.

3 On perusal of the documents on record, it is apparent that the complainant and the accused were live-in relationship since 2013 to 2017. Apparently, the relationships were consensual, learned counsel for the applicant submitted that there is no evidence with regards to recovery of any photographs sent to the complainant at the instance from the applicant or the cell phone

recovered during the investigation. Learned APP submitted that the applicant had manipulated the cell phone number and had forwarded the message and photographs to the complainant and her sister. Charge-sheet does not show recovery of any phone. Applicant is in custody from the date of arrest. Admittedly, both the parties were acquainted with each other and on several occasion there was physical relationship between them. Investigation is completed and charge-sheet is filed, further detention of the applicant is not necessary.

4 Hence, I pass the following order:

:: ORDER ::

- (i) Criminal Bail Application No.3286 of 2018, is allowed;
- (ii) Applicant is directed to be released on bail in connection with C.R.No.259 of 2018, registered with Kasturbamarg Police Station, Mumbai, on his furnishing P.R.Bond in the sum of Rs.25,000/-, with one or more sureties in the like amount;
- (iii) Applicant shall attend Kasturbamarg Police Station, Mumbai, once in a month on first Saturday between 11:00 to 1:00 p.m., till further order;

- (iv) Applicant is permitted to furnish cash security of Rs.25,000/-, in lieu of surety, for a period of six weeks;
- (v) Bail Application stands disposed of.

(PRAKASH D. NAIK, J.)