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

ANTICIPATORY BAIL APPLICATION NO. 3627 OF 2024

Shubham Devendra Kumar

.. Applicant

Versus

State of Maharashtra

.. Respondent

-
- Mr. Ayush Pasbola, Advocate through VC a/w. Ms. Mrunali Bhide, Advocates for Applicant.
 - Ms. Mahalakshmi Ganapathy, APP for Respondent – State.
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CORAM : MILIND N. JADHAV, J.

DATE : JANUARY 02, 2025.

P.C.:

1. Heard Mr. Pasbola, learned Advocate for Applicant through VC and Ms. Ganapathy, learned APP for Respondent – State.

2. Applicant before me is a first year Computer Engineering Student of Lokmanya Tilak College of Engineering. Complainant is second year Engineering student in Vidyalankar Engineering Institute at Wadala, Mumbai. Both of them had joined private tuition classes called “Rao Classes” in their Junior College days when they developed affinity towards each other which subsequently transformed into a relationship over a period of time. On 30.08.2024, they had a quarrel and resultantly broke-off. It is alleged that thereafter the Complainant circulated her objectionable photographs and sent emails and messages to her relatives, College Principal and victim.

3. First Information Report (for short “**FIR**”) is thereafter lodged on 29.11.2024 and in the FIR, the date of incident for indictment of Applicant is stated from 30.08.2024. Indictment is on the ground that in order to defame and tarnish the image of the Complainant, the Accused repeatedly sent her whatsapp messages leading the Complainant to block him; he repeatedly started sending emails from various emails; he sent her obscene emails also and most importantly it is alleged that he sent obscene messages and morphed photographs to the email ids of the Complainant’s College Principal. It is further alleged that he sent Complainant’s photos and videos to her mother and her friends.

4. FIR is lodged under Section 78, 79, 356 (2) of the Bharatiya Nyay Sanhita, 2023 (for short “**BNS**”) and Section 66A and 67A of the Information and Technology Act, 2000 (for short “**IT Act**”).

5. Mr. Pasbola, learned Advocate for Applicant would persuade me to consider that except Section 67A of the IT Act, rest of the offences are bailable. He would submit that Section 66A of the IT Act is declared as unconstitutional. He would submit that the mobile phone of the Applicant has been deposited with the Investigating Officer. He would submit that he would extend absolute co-operation to the Investigating Officer as desired.

6. Ms. Ganapathy has vehemently contested this Anticipatory Bail Application stating that custodial interrogation of the Applicant is required in the present case for carrying out further investigation. She would submit the act of the Applicant circulating and disseminating obscene photographs of the Complainant to her relatives and friends including her College Principal, is a very serious act and therefore his custodial interrogation is required.

7. Though the FIR states the date and duration of the incident is on and from 30.08.2024, *prima facie*, it is seen that Applicant and Complainant knew each other from their Junior College days i.e. the years preceding their present years of studying in the Engineering Collage.

8. What the learned Prosecutor has stated can be investigated and recovered by the Investigating Officer from the relatives of the Complainant, from her friends and from her College Principal, for which in my opinion custodial interrogation of the Applicant will not be necessary.

9. In view of the above, Applicant is directed to hand over his laptop, I-pad and computer from which emails were sent by them and received by the aforementioned parties.

10. Anticipatory Bail Application stands allowed in terms of prayer clause (a).

11. In view of the facts of the case, interim protection is granted on the following terms and conditions:-

- (i) In the event of the arrest, Applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount;
- (ii) Applicant shall report to the Investigating Officer of the concerned Police Station everyday from 13.01.2025 to 16.01.2025 from 10:00 a.m. to 12:00 noon in the first instance and thereafter as and when called for by the Investigating Officer alongwith the requisite information / documents;
- (iii) Applicant shall furnish particulars of his address and mobile number to the Investigating Officer within two days from today;
- (iv) Applicant shall not misuse his liberty in any manner or influence the informant, witnesses or any person concerned with the case and he shall not tamper with the evidence;
- (v) It is directed that Applicant shall extend complete cooperate in the investigation of the instant case;

(vi) Applicant shall not make any attempts to re-associate with the victim girl in any manner either through a device or in-person; and

(vii) Any infraction of the conditions shall entail revocation of this order.

12. Parties to act on a server copy of this order.

13. Anticipatory Bail Application is disposed.

[MILIND N. JADHAV, J.]

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