

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 49 OF 2015**

Jignesh Kanubhai Ghaskata

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Kaushik M. Mhatre for the Applicant

Ms. A. T. Jhaveri, A.P.P for the Respondent-State

CORAM : REVATI MOHITE DERE, J.

MONDAY, 16TH FEBRUARY, 2015

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 pre-arrest bail in connection with C.R. No. 301 of 2014 registered initially with the Virar Police Station and now transferred to Kurar Police Station, Malad (East), Mumbai, for the alleged offences punishable under Sections 498-A, 406 r/w 34 of the Indian Penal Code.
3. According to the prosecution, the complainant-Beena Ghaskata got married to the present applicant on 1st December, 2011 according to

Hindu Vedic Rites at Malad, Mumbai. The present applicant was working as a Chartered Accountant at the relevant time. It is alleged in the complaint, that the complainant received about 6 tolas of gold at the time of marriage. The applicant is also stated to have given 10 tolas ornaments to the complainant at the time of the marriage. After marriage, the complainant started residing with the applicant along with his parents. According to the complainant, from the second day of marriage itself, the applicant and the in-laws started ill-treating the complainant, by abusing and assaulting her. It is alleged that a meeting was arranged by her in-laws, by calling some members of their community. It is further alleged that despite the community members impressing upon the applicant and in-laws, not to ill-treat the complainant, they continued to ill-treat the complainant. According to the complainant, on 7th July, 2014 at 1.30 p.m., the applicant and the in-laws of the complainant abused and assaulted her, and asked her to leave the matrimonial house, after retaining her jewellery. This is in brief, the essence of the complaint dated 24th July, 2014, registered with the Kurar Police Station vide C.R. No. 301 of 2014.

4. The learned Counsel for the applicant contended that prior to

lodging of the aforesaid complaint, the complainant had lodged a similar complaint dated 26th August, 2012 with the Kurar Police Station, alleging an offence punishable under Section 498-A of the Indian Penal Code, as against the applicant and his parents. He submitted that after conducting an inquiry in the said case, the Kurar Police Station did not register the FIR, as no offence was disclosed. He submitted that thereafter, the complainant also filed proceedings under the Domestic Violence Act in the Court of the learned JMFC, sometime in January, 2014 and also filed a petition seeking restitution of conjugal rights before the Civil Judge, Senior Division, Vasai. He submitted that pursuant to the complaint of the complainant with the Kurar Police Station, the applicant and his parents approached the Sessions Court and sought pre-arrest bail under Section 438 of the Indian Penal Code. He contended that the learned Sessions Judge vide order dated 9th September, 2014 directed the PI Kurar Police Station to give sufficient notice to the applicants in the event of their arrest in connection with the offence lodged by the complainant under Section 498-A of the Indian Penal Code. The applicants were also directed to cooperate with the investigating agency. According to the learned Counsel, prior to the aforesaid order, due to the efforts taken by the mediators, both the parties entered into consent

terms and submitted the same before the Human Rights Organisation at Virar on 27th March, 2014. In view of the efforts taken, it was stated in the consent terms that, 'After through mediation between both the parties and their relatives it is been decided that the husband is ready to take the wife for consummation of marriage and both the parties are ready to get the matter amicably settled.' It was further stated in the consent terms that the complainant was ready to go back to her matrimonial house on her own accord, without any coercion and undue influence. The said consent terms dated 27th March, 2014, was signed in the presence of the Human Rights members and the family members of the applicant and the complainant.

5. According to the learned Counsel, as per the consent terms, the complainant did not withdraw the DV proceedings, on 27th June, 2014, which were pending before the learned JMFC and instead went home with her parents on the said date. It is submitted that thereafter, i.e. on 24th September, 2014, the complainant went and lodged a complaint with the Virar Police Station once again alleging offences punishable under Sections 498-A and 406 r/w Section 34 of the Indian Penal Code. He submitted that the learned Sessions Judge was pleased to allow the anticipatory bail

preferred by the applicant's parents. He submitted that in fact, the complainant had taken all her belongings i.e. her *streedhan* along with her and that the same has been captured in the photographs taken, prior to the registration of C.R. No. 301 of 2014. The learned Counsel also contended that the complainant, while taking her belongings on 7th July, 2014, had threatened the applicant and his parents of booking them under Section 498-A of the Indian Penal Code and for which, the applicant had lodged an NC complainant. According to him, the complaint is a false complaint, filed only as the complainant was not ready to reside with the applicant's parents.

6. The learned A.P.P opposed the said application. He submitted that on 7th July, 2014, the complainant was driven out of the matrimonial home and that the accused had kept the applicant's *streedhan* with them.

7. Learned A.P.P does not dispute the fact, that during the pendency of the DV proceedings, the family members had tried to amicably settle the dispute and consent terms were filed before the Human Rights Organisation, Virar.

8. Perused the application along with all the annexures thereto. It appears that a complaint alleging 498-A was filed by the complainant initially with the Kurar Police Station in 2012, which was inquired into by the police. Pursuant to the inquiry, no FIR was registered by the Kurar Police Station. Thereafter, the parties tried to amicably settle the dispute, as is evident from the consent terms, filed before the Human Rights Organisation, pursuant to which, the complainant went to reside at her matrimonial house. Thereafter, on 24th September, 2014, the complainant lodged another complaint with the Virar Police Station, being C.R. No. 301 of 2014 alleging offences punishable under Sections 498-A, 406 r/w Section 34 of the Indian Penal Code as against the applicant and his parents. The said C.R. has been transferred to the Kurar Police Station and is pending investigation. With regard to return of complainant's *streedhan*, it appears that there is a dispute with regard to the same. The complainant's petition seeking restitution of conjugal rights on one hand and filing of proceedings under the Domestic Violence Act, on the other hand, inherently contradicts each other.

9. Considering the material on record, this Court is of the opinion that this is a fit case for granting pre-arrest bail. Accordingly, I pass the following order :

ORDER

- (i) Application is allowed.
- (ii) The applicant Jignesh Kanubhai Ghaskata shall be released on bail, in the event of his arrest, in connection with C.R. No. 301 of 2014 registered with the Virar Police Station (now transferred to Kurar Police Station) on furnishing PR bond of Rs. 15,000/- with one or two solvent sureties of the like amount.
- (iii) The applicant shall attend the Kurar Police Station, on every Monday and Saturday from 7 p.m. to 8 p.m. for a period of one month commencing from 21st February, 2015.

10. Application is accordingly disposed of.

11. Parties to act on the authenticated copy of this order.

REVATI MOHITE DERE, J.