

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 228 OF 2015

Mr. Swapnil Popat Jagdale	..	Applicant
vs.		
1) The State of Maharashtra		
2) Mrs. Swapna S. Jagdale	..	Respondents

Mr. Rajkumar S. Bharuka for the applicant.
Ms. Yogita Deshmukgh for respondent No.2.
Ms. A.T.Jhaveri, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 10th June, 2015.

P.C.

Heard. This is an application under Section 438 of Cr.P.C.
The applicant herein is apprehending his arrest in Crime No.454 of 2014 registered at Malad Police Station for the offences punishable under Sections 498A, 406, 420, 323, 504, 506 read with Section 34 of IPC.

2. It is the case of the prosecution that the applicant has got married to the complainant on 30.11.2012. On 20.12.2013, the couple is blessed with a female child. As per the records, on 24th December, 2013, the applicant herein filed a petition seeking divorce before the Family Court

under Section 13(1)(ia) of the Hindu Marriage Act. It appears from the plaint that the applicant herein has made wild allegations against the complainant. According to the applicant, his wife i.e. the complainant had gone to her maternal house in the 5th month of her pregnancy and had not returned thereafter. It appears that a discordant note had struck between the couple. It is submitted across the Bar that the parties are before the Mediator in the Family Court. The complainant is present in the Court.

3. The learned counsel appearing for the complainant submits that the complainant is most willing to return to her matrimonial abode as according to her, the applicant has misunderstood her. However, the applicant, who is present in the Court, insists that he is not willing for cohabitation. However, since the parties are before the Mediator, it is not necessary to go into these aspects. According to the complainant, her jewellery and other valuables are in the custody of the applicant and, therefore, she is seeking return of the said property and has alleged offence punishable under Section 406 of IPC. However, in a matrimonial dispute, custody cannot be given for the purpose of recovery of Stridhan or any other valuables. The parties would be at liberty to agitate the same before the appropriate Court and liberty is granted accordingly. The

applicant has prima facie made out a case for grant of pre-arrest bail.

4. It is made clear that the observations made hereinabove shall not be considered in any other proceeding including the Family Court proceedings as the application and the order is restricted to the relief sought under Section 438 of Cr.P.C.

ORDER

- (i) The application is allowed.
- (ii) In the event of his arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) The applicant shall report to the concerned police station as and when called.
- (iv) The applicant shall not threaten the complainant in any manner.

Application is allowed and disposed of.

(SMT.SADHANA S.JADHAV, J.)