

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 453 OF 2015

Jenish Vyomesh Shah. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Ms. Chitra R. Pawar, advocate for Applicant.

Mr. K.H. Giri, advocate for intervenor.

Ms. P.P. Shinde, APP for State.

CORAM : SMT. SADHANA S. JADHAV,J
DATE : JUNE 9, 2015

P.C.:

1 Heard the learned counsel for the applicant, Learned APP and the learned Counsel for intervenor. Perused papers.

2 This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 606 of 2014 registered at Samatanagar Police Station for offence punishable under Section 498A, 406 read with Section 34 of the Indian Penal Code. The complainant herein is married to the

applicant on 19/11/2009. On 22/12/2014 the complainant herein who happens to be the wife of the present applicant has lodged a report at the police station alleging therein that she has been harassed and ill-treated at the hands of her husband and in-laws. That at the time of marriage, she was gifted with golden ornaments worth Rs. 90 Lakhs approximately. That her husband was addicted to liquor. He returns home late at night under the influence of alcohol. It appears from the recitals of the FIR that due to conduct of the present applicant, the complainant was under mental stress and she was harassed. That her brother-in-law namely Pratik had also given understanding to her husband. However, he had not paid any heed to the same. On 23rd May, 2013 the complainant had returned to her paternal uncle's house. She had asked her mother-in-law to return the ornaments gifted to her at the time of her marriage. Her mother-in-law refused to return the same. That on 20th July, 2014 according to the complainant, the members of her matrimonial family as well as her husband had been to house of her paternal uncle and had asked

him to gift her with one flat in Mumbai and a car. Hence, she was constrained to set the law into motion.

3 The learned Counsel appearing for the applicant submits that in order to show bonafide, the applicant is willing to voluntarily return two sets of necklace and a pair of bangles to the complainant. According to the learned Counsel for the applicant, these are the only jewellery which are retained by the applicant and the applicant desires to return back the same voluntarily. The learned Counsel upon instructions submits that on 12th June, 2015 at about 5 p.m. the applicant shall attend Samatanagar Police Station alongwith abovesaid jewellery sets and return the same to the complainant in the presence of the police. The police shall record panchanama to that effect and include the same in the papers of investigation. The Investigating Officer shall return the ornaments to the complainant forthwith in the police station.

4 The case pertains to matrimonial dispute and hence, custodial interrogation would not be imperative. In view of this this, the applicant has made out prima facie case for pre-arrest bail.

5 Hence, following order is passed :

ORDER

(i) The application is allowed.

(ii) In the event of arrest in C.R. No.606 of 2014, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- and one or two sureties in the like amount.

(iii) The applicant shall report to the concerned Police Station on 12/6/2015 at about 5 p.m. and return the jewellery to the complainant in the presence of the police. The police shall record panchanama to that effect and include the same in the papers of investigation. Thereafter, the applicant shall report to the police

station as and when called and cooperate with the investigating agency to the best of his capacity.

6 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)