

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 499 OF 2015

Rehmani Zilani Shaikh

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Suresh Dubey for Applicant
Ms. P. P. Shinde APP for the State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATED : 23rd JUNE 2015

PC :

Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 7 of 2015 registered at Wagale Estate Police Station for offence punishable under sections 498 (A), 376 (B), 323, 506 (2) r/w 34 of Indian Penal Code.

2) It is the case of prosecution that on 14/01/2015, the Ex-wife of present applicant lodged a report to the police station alleging therein that she happens to be second wife of present applicant. According to her, she was informed by Shaukat Bashir Khan that present applicant is unmarried man. He had proposed marriage with her. She had sought time to take permission

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from her parents. Thereafter, according to her, she was induced to marry present applicant. She was ill-treated and harassed by present applicant. That she was informed that she has been purchased for Rs. 65,000/-. It is further alleged that she was taken to various lodges, where he had performed sexual intercourse with her. She has also alleged that she had conceived pregnancy, but the applicant had assaulted her on her abdomen and therefore, she had delivered a dead child on 17/05/2011. It is also alleged that applicant had pronounced 'Talak' on 31/10/2011. She had given birth to child on 12/05/2012. On 27/09/2013, he had taken her to Shubham lodge and had sexual intercourse. On 12/06/2014 also, she was taken to Utsav lodge at Bhiwandi and on 11/10/2014, she had given birth to a second child. Hence, offence punishable under section 376 (B) and 498 (A) against present applicant.

3) Taking into consideration the recitals of F.I.R., it prima facie appears that this is a case of matrimonial dispute. Even according to complainant, she has given birth to 2 children after divorce and hence section 376 (B) would prima facie not attracted. This is not a case where custodial interrogation would be imperative. Hence, applicant deserves grant of pre-arrest bail. It is

made clear that observations made herein above are prima facie in nature and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, applicant be enlarged on bail on furnishing P. R. bond in the sum of Rs. 15,000/- with one or two sureties in the like amount.
- (iii) Applicant shall report to concerned police station as and when called.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)