

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 954 OF 2015

Rohan Kisan Pawar. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Anoop Pandey i/b. Shagufta M.H. Masarguppi, advocate for Applicant.

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

CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 4, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. 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. 229 of 2015 registered at Shivaji Nagar Police Station for offence punishable under Section 498A, 306 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that the applicant had married Priti on 17th May, 2011. It was a love marriage. The couple was blessed with two issues, which had expired due to illness. On 24th April, 2015 Priti was admitted in the hospital with history of burn injuries. Her statement was recorded. She has alleged that she was subjected to cruelty and ill-treatment at the hands of her husband and other members of the matrimonial family and therefore, they were residing in the mezzanine floor of the said house. According to her, on 24th April, 2015, the applicant had returned home in the afternoon at about 1.30 p.m. and questioned her as to why food was not cooked. On the said issue, there was quarrel between the couple. The family members had tried to pacify the couple. However, it was of no avail. In the meanwhile, wife of the applicant had gone to mezzanine floor of the house and set herself ablaze in a fit of rage.

4 The learned APP submits that prior to this incident also wife of the applicant had approached the police station and lodged the

reports on the basis of which non-cognisable cases were registered. The couple had also taken steps to obtain divorce by mutual consent.

5 In any case, it cannot be said that the applicant had abetted, instigated or facilitated commission of suicide. Prima Facie, it can be said that the applicant would be liable for offence punishable under section 498A of the Indian Penal Code. However, prima facie offence under Section 306 of the Indian Penal Code is not made out. Hence, custodial interrogation would not be imperative. Hence, the applicant deserve grant of pre-arrest bail.

6 It is made clear that the observations made hereinabove are restricted to an application under Section 438 of the Code of Criminal Procedure, 1973. The same shall not be considered while deciding the application for discharge or for quashing of FIR or at the time trial. The learned Trial Court shall decide the matter uninfluenced by the above said observations and arrive at a conclusion only on the

basis of the substantive evidence adduced by the prosecution at the time of trial.

7 Hence, following order is passed:

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, 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 as and when called.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)