

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1097 OF 2015

Ajay Bholanath Jadhav	...	Applicant
vs.		
The State of Maharashtra	...	Respondent

Mr. Anil Kamble, Advocate, for the applicant.
Mr. Deepak C. Natu, for the Intervener.
Mr. S.H. Yadav, APP, for the State.
Mr. Sonawane, PSI, Kalyan Taluka Police Station, present.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 31st July, 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.142 of 2015 registered at Kalyan Taluka Police Station for the offences punishable under Sections 498A, 406, 494, 504, 506 read with Sec. 34 of IPC.

2. It is the case of the prosecution that on 17.6.2015, Seema Jadhav lodged a report at the police station alleging therein that she was married to Dinesh Sonavane in the year 2004. The present applicant happens to be the friend of her first husband. He used to visit their house quite often. She got acquainted with him. Thereafter, the present applicant and the

complainant realized that they were in love with each other and therefore decided to get married with the consent of her first husband. The present applicant got married to the complainant on 8.8.2013. It is alleged that at the time of marriage, her brother had gifted her golden bangles and other valuables. The applicant had treated her well for quite some time and thereafter he had taken away golden ornaments from the complainant on the ground that there could be theft in the house and never returned the golden ornaments to her. It is further alleged that the present applicant was insisting upon the complainant to fetch Rs. 2 – 3 lakhs from her brother if she wanted to live happily in her matrimonial house. He had also threatened her that he would eliminate her upon failure of her brother to give the amount. She lodged reports on the basis of which non-cognizable cases were registered. However, the applicant herein had pleaded apology. She continued the marital life peacefully. She had not prosecuted him. It is alleged that he had also informed her that he would get re-married. According to the complainant, on 24.5.2015, the present applicant got married to one Pranali Gaikwad without obtaining divorce from the complainant. Hence, she was constrained to lodge a report on the basis of which the applicant is being prosecuted.

3. Upon perusal of the papers of investigation, it appears that the

registration of the offence is an outcome of the matrimonial dispute.

4. The learned counsel for the complainant submits that the custody of the applicant would be necessary to recover golden ornaments which the brother of the complainant had given to the complainant at the time of marriage.

5. As against this, the learned counsel for the applicant submits that registration of an offence or a criminal prosecution cannot be treated as a recovery proceeding. The golden ornaments are not weapons which can be recovered under Section 27 of the Indian Evidence Act.

6. The learned for the intervener also submits that the complainant would take recourse to other proceedings available in law.

7. Taking into consideration the guidelines laid down by the Hon'ble Apex Court in the case of **Arnesh Kumar vs. State of Bihar reported in (2014) 8 SCC 273**, this Court is inclined to grant pre-arrest bail to the applicant.

8. However, it is made clear that the observations made hereinabove are restricted to deciding the application under Sec. 438 of Cr.P.C. and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

(i) In the event of arrest, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

(ii) The applicant shall report to the concerned police station from 5th August to 10th August, 2015 between 10 a.m. to 1 p.m. and co-operate with the investigating agency to the best of his capacity.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)