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**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO.3343 OF 2015

Naresh s/o Charandas Rathod ..APPLICANT

VERSUS

The State of Maharashtra ..RESPONDENT

Mr R.N. Dhorde, Senior Advocate, instructed by Mr V.S. Kadam, Advocate for applicant;

Mr S.M. Ganachari, Addl. Public Prosecutor for respondent;

Mr M.D. Narwadkar, Advocate to assist Addl. Public Prosecutor

CORAM : N.W. SAMBRE, J.

DATE : 20th January, 2016

ORDER :

By the present application, the applicant is seeking pre-arrest bail, in connection with C.R. No.76 of 2015, registered with New Mondha police station, Parbhani, for offences punishable under sections 307, 498-A, 323, 504 read with section 34 of the Indian Penal Code and under section 3 (A) and (D) of Protection of Women from Domestic Violence Act, 2005.

2. According to the learned Senior Counsel appearing on behalf of the applicant, admittedly, there exists a matrimonial dispute between the parties and the matter is *sub judice* before the competent Court, in relation to grant of maintenance under the provisions of Protection of Women from Domestic Violence Act, 2005. According to him, in the said background, the applicant is entitled to be released on pre-arrest bail.

(2)

3. Learned Addl. Public Prosecutor opposed the application and prayed for rejection thereof. Learned Counsel appearing on behalf of the complainant submits that the complainant is not insisting for arrest of the applicant, however, she claims maintenance from her towards her medical expenses.

4. The above referred claim for grant of maintenance under the provisions of Protection of Women from Domestic Violence Act, 2005 cannot be gone into in the present application, while exercising powers under section 438 of the Code of Criminal Procedure, once the issue is *sub-judice* before the competent Court.

5. Having regard to the nature of the allegations against the applicant made in the first information report, in my opinion, it will be appropriate to confirm the ad interim protection ordered by this Court vide order dated 29th June, 2015. I, therefore, pass following order :-

In the event of arrest of the applicant, in connection with C.R. No.76 of 2015, registered with New Mondha police station, Parbhani, for offences punishable under sections 307, 498-A, 323, 504 read with section 34 of the Indian Penal Code and under section 3 (A) and (D) of Protection of Women from Domestic Violence Act, 2005, he be released on bail on furnishing P.R. Bond of Rs.25,000/- with one surety in the like amount.

(3)

It is open for the Investigating Officer to issue 48 hours notice to the applicant, in case his presence is required for the purpose of investigation/inquiry.

Criminal Application stands allowed in above terms.

(N.W. SAMBRE, J.)

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