

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 49 OF 2016

Santosh Anand Gaikwad

.. Applicant

Versus

The State of Maharashtra & Anr.

.. Respondents

Mr. Samsher R. Garud i/b Jayakar & Partner, Advocate for the Applicant.

Ms. N.S. Jain, A.P.P. for the Respondent – State.

Mr. Arvind Bhalerao, Advocate for Respondent No.2.

CORAM : N.W. SAMBRE, J.

DATED : 30th NOVEMBER, 2016.

P.C. :

1 The applicant was married to the complainant on 24.06.2007. Out of the said relationship both were blessed with an issue, however, it was almost after seven years matrimonial discord developed resulting into registration of Crime No.492 of 2015 for the offences punishable under sections 498-A r/w. 34 of the I.P.C.

2 The applicant before this Court is a husband and his mother, is already ordered to have been released on pre-arrest bail.

3 It is claimed that the amount that was given to the applicant for purchase of the flat was put for the said use and it is the complainant who has given the said flat on hire and deriving and getting leave and license fee from the concerned tenant. It is also sought to be canvassed that issues as regards recovery of Stridhan and the other payments could be gone into in appropriate proceedings under the others statutes which remedies are very much available to the complainant. According to him, the custodial interrogation is not required.

4 Per contra, the learned A.P.P. who is assisted by the counsel for the complainant submits that the custodial interrogation is necessary for the purpose of recovery of the amount given as hand loan, by the complainant to the applicant. Recovery of stridhan is also sought.

5 Having considered the submissions, in my opinion, the case for custodial interrogation is not made out. The applicant, in my opinion, is entitled to be released in the event of arrest for the reason that the applicant and complainant who are husband and wife resided together for a period of seven years. It is only thereafter on the issue of hand loan, the differences cropped up.

6 The mediation efforts to bring together to the parties by this Court remained unsuccessful.

7 Looking to the nature of relationship between the applicant and complainant and the fact that the amount was invested in the immovable property which is in joint name, in my opinion, the custodial interrogation is not warranted. Hence, the application is allowed.

8 In the event of arrest, the applicant be released on bail on executing P.R. Bond of Rs.50,000/- with one or two sureties in the like amount. The applicant shall attend police station as and when called. The applicant shall not tamper with the evidence or influence the witnesses.

(N.W. SAMBRE, J.)