

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

ANTICIPATORY BAIL APPLICATION NO.362 OF 2016

Shri Siddarth Dilip Mehta ...Applicant
vs
The State of Maharashtra & Anr. ...Respondents

**WITH
ANTICIPATORY BAIL APPLICATION NO.535 OF 2016
WITH
CRIMINAL APPLICATION NO.277 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO.535 OF 2016**

Shri Siddarth Dilip Mehta ...Applicant
vs
The State of Maharashtra & Anr. ...Respondents

...

Mr. Shailendra Mishra a/w Mr. A. R. Morya , Mr. Sharad Rai for the applicant in ABA No.362/2016 and ABA No.535/2016.
Mr.Swapnil Narkar for Intervenor in ABA No.362/2016.
Mr. S. H. Yadav, APP for the State in ABA No.362/2016.
Mrs. P. P. Shinde, APP for the State in ABA No.535/2016.
Mr. Shashikant Babi Padave, API Khar police station.

...

**CORAM : MRS. MRIDULA BHATKAR, J.
DATE : 15th APRIL, 2016.**

P.C. :

. This application is moved for pre-arrest bail in two matters i.e. ABA No.362/2016 and ABA No.535/2016. Though CR in these two matters are different, the parties are same and hence the matters are decided together by this common order.

2. In ABA 362/2015 the applicant/accused, who is husband of the complainant, is facing prosecution under sections 420, 406, 498(A), 504 and 323 of the Indian Penal Code in C.R. No.62/2016 registered with Khar Police Station, Mumbai. In ABA No.535/2016 the applicant/accused is prosecuted for the offence under section 381 r/w 34 of the Indian Penal Code in C.R. No.652/2015 registered with Khar Police Station on 24/12/2015.

3. The complainant and the applicant/accused met in the year 2010. They developed friendship and thereafter they fell in love with each other. As per the case of the complainant, she paid Rs.40 Lakhs to the applicant/accused and his parents in the year 2011 and three cheques, which were given by the applicant/accused towards repayment of the same, were bounced. However, both of them got married on 22/4/2013 and thereafter started living together. It is the case of the complainant that thereafter the applicant/accused used to torture her physically and mentally. He used to abuse her and use to demand money from her. In the year 2013, she found that the applicant/accused was having illicit relationship with other ladies also. The applicant/accused pledged her ornaments with the jeweler and thus the applicant/accused had misappropriated the jewelery valued Rs.20 Lakhs of the complainant and hence the case under section 420, 406, 498-A, 504 and 323 of the IPC was lodged.

4. In the other C.R. No.62/2016, it is the case of the complainant that the complainant and her sister's jewelery was

kept in locker in a cupboard. Password of the said locker was known to the complainant, her sister and the applicant/accused. Her sister told password to her son . On 11/11/2015 she along with her sister and son went to Lucknow. She returned on 16/11/2015. She gave key of the cupboard to her husband i.e. the applicant/accused who returned that key to her on 16/11/2015. The two maid servants who are also co-accused in C.R. 652/2015, told that they are leaving job and left job on the next date i.e. on 17/11/2015. Then again she along with her sister and son went to her native place. The applicant/accused was having key. Then on 16/12/2015 after her return, on opening the cupboard, she found that jewelry of Rs.14 lakhs was missing. The applicant/accused did not return back as there was quarrel between them. She lodged complaint against her maids initially and thereafter the applicant/accused was substituted.

5. Learned counsel for the applicant/accused submitted that the applicant/accused is innocent. He has not committed any offence. He is from a respectable family. Whatever allegations made by the complainant against the applicant/accused in the case under section 498-A of the IPC are prior to their marriage. He submitted that he has not committed any offence of theft as alleged. Learned counsel for the applicant/accused submitted that allegations in respect of Rs. 40-60 Lakhs are prior to their marriage, He submitted that the applicant/accused is ready to deposit Rs.14.55 Lakhs without prejudice in the Court.

6. Learned APP for the State, opposing this application, has relied on the affidavit and documents produced. There are three cases pending against the applicant/accused and one is pertaining to an offence under section 307 of the IPC.

7. Perused all the document so also the affidavit. Considering nature of allegations, I am inclined to protect the applicant/accused by allowing ABA No.362/2015 in C.R. No.62/2016. ABA No.362/2015 is hereby allowed with following order:

ORDER

- (i) In the event of arrest, the applicant/accused be enlarged on bail on furnishing P. R. Bond in the sum of Rs.20,000/- with one solvent surety in the like amount;
- (ii) The applicant shall not tamper with the evidence;
- (iii) The applicant shall not pressurize the complainant or his family members;
- (iv) The applicant shall not indulge into any criminal activity while on bail;
- (v) The applicant shall cooperate with the Investigating Officer and shall attend the concerned police station as and when required by the police.

8. However, in the case of theft though the applicant/accused is ready to deposit amount of Rs.14 Lakhs, total value of the jewelry which is stolen in the case of theft, it is necessary for the police to find out the stolen articles and therefore

in such a case custody is required. The applicant/accused is having antecedents. Hence, ABA No.535/2016 in C.R. No.652/2015 is rejected.

9. Learned counsel for the applicant/accused submits that he wants to challenge the order passed by this Court rejecting ABA No.535/2016 in the Supreme Court and hence interim protection granted earlier to continue. Interim protection granted earlier is continued upto 6/5/2016.

(MRS.MRIDULA BHATKAR, J.)