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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.585 OF 2016

Sharad Pundalik Kambale @ Shinde	 Applicant
V/s.	
The State of Maharashtra	 Respondent

WITH
ANTICIPATORY BAIL APPLICATION NO.604 OF 2016

Machindra S. Mohite	 Applicant
V/s.	
The State of Maharashtra	 Respondent

Mr. Jayesh Wani, for the Applicants in both the applications.
Mr. Y. M. Nakhwa, APP for the Respondent State.

CORAM : A. M. BADAR, J.

DATE : 17th JUNE, 2016.

P.C. :

1. Applicants/accused in Crime No.88 of 2016, for the offence punishable under Sections 352, 354, 354(b), 420, 494, 498A read with 34 of the Indian Penal Code, registered with police Station Shivajinagar, Ichalkaranji, District: Kolhapur, by this application, are praying for pre-arrest bail.
2. The applicant in A.B.A. No.604 of 2016 Machindra Mohite is stated to be the husband of informant Ashwini whereas applicant Sharad

Kamble in A.B.A. No.585 o 2016 is stated to be a mediator in their marriage.

3. The learned counsel for applicants vehemently argued that the avernments made in the F.I.R. do not prima facie make out offence under Section 498A of IPC and the story of the informant is improbable. The informant is putting half truth in her F.I.R. He submitted that considering the nature of avernments in the F.I.R., applicants are required to be granted pre-arrest bail.

4. As against the learned APP opposed the applications by contending that the offence alleged is serious in nature.

5. Perusal of the F.I.R. lodged by Ashwini, goes to show that she was well aware of the fact that applicant Machindra is a married person having his wife alive. Still she married him. As such, prima facie, it cannot be said that it was applicant Machindra, who had cheated the informant. In the wake of the fact that first wife of applicant Machindra is alive, applicability of Section 498A of the IPC will have to be considered. Even otherwise, the averments in the F.I.R. do not reflect legal cruelty as found in explanation to Section 498A of IPC. Statements of witnesses reveal that a team of orphan age had taken shelter at the house of applicant Machindra.

6. So far as applicant Sharad Kamble is concerned, F.I.R. itself

reveals that by using criminal force he tried to outrage the modesty of informant Ashwini. As such he cannot be granted pre-arrest bail considering the serious nature of allegations against him. Hence following order.

Order

i) Criminal Application No.604 of 2016 is allowed.

ii) In the event of arrest of applicant Machindra Mohite, in above crime, he be released on bail on his executing P.R. Bond in the sum of Rs.10,000/- and on furnishing surety in the like amount.

lii) The applicant shall not, directly or indirectly, make any inducement, threat or promise to any persons acquainted with the facts of the case so as to dissuade them from disclosing such facts either to the Court or to any police officer.

iv) The shall attend the concerned police station on every Sunday in between 11.00 a.m. to 1.00 p.m. till filing of the chargesheet against him and he shall co-operate the Investigating officer.

v) The applicant shall not commit offence of similar nature in future.

7) The Application No.585 of 2016 of Sharad Kambale is rejected.

[A. M. BADAR, J.]