

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.823 OF 2016**

1. Abhishek Saxena S/o Satyapal Saxena
2. Satyapal Singh
3. Mrs Saroj w/o Satyapal Singh .. Applicants

vs

State of Maharashtra .. Respondent

Mr.Hemant Ingle I/b Mr.Prashant Goyal for Applicants
Mr.Deepak Thakre Additional Public Prosecutor for State

CORAM: A.M.BADAR, J
DATE: 1st AUGUST, 2016

P.C.

None appeared for the informant though served.

1. Applicants/accused in crime No.52 of 2016 for the offence punishable under sections 498-A, 323, 504 read with section 34 of the Indian Penal Code registered at police station Vimantal, Pune by this application are seeking pre-arrest bail.

2. Heard learned counsel appearing for the Applicants/accused. He argued that even if the recitals in the FIR is taken as it is, the cruelty as explained in Explanation to section 498-A of Indian Penal Code is not established and therefore, custodial

interrogation of present Applicants is not warranted. The learned Additional Public Prosecutor opposed the application by submitting that the offences are serious and having impact on the society.

3. Perused the FIR as well as record made available. Dipti-wife of present Applicant no.1 lodged FIR on 19 March 2016 resulting in registration of the crime in question. According to the prosecution case, Dipti married applicant no.1-Abhishek Saxena on 10 December 2013. Other Applicants are her in-laws. According to prosecution case, at the time of marriage, there was demand of Rs.3,00,000/- as well as a car of i-20 make from the side of present Applicants. However, father of the informant was in a position to pay Rs.3,00,000/- as dowry with a car and therefore, by paying this much amount it was assured that car will be given subsequently. It is averred that after marriage Applicant no.1-Abhishek Saxena used to hurl abuses and assault the informant. This also happened in the month of May 2014 in presence of parents of the informant. Ultimately, on 6 June 2014 after giving humiliating treatment to relatives of Dipti she was asked her to leave the matrimonial house. Thereafter, her in-laws started her character assassination by visiting her office. It is further averred that in November, 2014 at the

instance of Applicant no.3, Abhishek, Dipti resumed cohabitation with him. However, she was given the same treatment by her husband as well as in-laws.

4. What 'cruelty' means is explained by Explanation to section 498-A of the Indian Penal Code. It reflects willful conduct which is of such a nature as is likely to drive the woman to commit suicide or to cause grave injury or danger to life, limb or health (whether mental or physical) of the woman.

5. Considering the nature of averments and as Applicants are available for investigation, their custodial interrogation is not required and therefore the following order :

ORDER

- (i) Application is allowed.
- (ii) Order granting ad-interim anticipatory bail to the Applicants on 5 May 2016 is confirmed.
- (iii) Applicants/accused shall inform their latest place of residence and cell number after their release and continue to inform the change in residence or cell number, if any from time to time to the Investigating Officer of the concerned police station and on filing the

charge sheet to the concerned Court;

(iv) Applicants shall not directly or indirectly make any inducement, threat, or promise to any person acquainted with the facts of accusation against them so as to dissuade them from disclosing such facts either to the Court or to any Police Officer and that they shall not tamper with the evidence;

(v) Applicants/accused shall co-operate for expeditious disposal of the trial;

(v) Applicants shall co-operate with the Investigating Officer by visiting the concerned police station as and when reasonably called.

(A.M.Badar, J)