

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1033 OF 2016

1) Sushant B. Khaitan
2) Binod Khaitan
3) Ranjana Khaitan

.....Applicants

V/s.

The State of Maharashtra & Ors.

.....Respondents

* * * * *

Mr. Rajeshwar Panchal, Advocate for the applicants.

Mr. N.B. Patil, APP for respondent, State.

Mr. Viral Rathod, Advocate for complainant.

CORAM :- N. W. SAMBRE, J.

DATED :- 21ST DECEMBER, 2016.

P.C. :-

1). The applicants are seeking pre-arrest bail in Crime No. 144 of 2015 for the offences punishable under Sections 498A, 354(A)(1) Indian Penal Code read with Section 43(a)(b) of the Information Technology Act.

2). So far as claim of applicant no.1, husband for grant of

pre-arrest bail is concerned, since he was arrested, the same has been rendered infructuous.

3). Applicant no.2, Binod and applicant no.3, Ranjana are the father and mother-in-law of the complainant, Gunjan who married applicant no.1 on 26th November, 2012 and thereafter started residing at Bangalore.

4). The complainant, victim has come out with a specific allegation for an offence punishable under Section 354(A)(1) against applicant no.2, father-in-law. It is worth to mention that, the offence under Section 354(A)(1) is bailable one.

5). So far as the offence punishable under Section 43(a) and 43(b) of the Information Technology Act is concerned, the specific allegations were against applicant no.1, husband who was already arrested and released on bail.

6). So far as offence under Section 498A is concerned, the perusal of the FIR specifically depicts that the allegation pertains to the period between 17th July, 2013 till 1st December, 2014. There is an unexplained delay of about 4 months in lodging the FIR. The judgment of this Court in the matter of **Shekhar Shivdas Mahire & Ors. V/s. Sou. Sarikabai Shekhar Mahire & Anr. Delivered by the learned Single Judge in Criminal Application No. 276 of 2008 decided on 13th April, 2010** speaks of offence under Section 498A is not a continuing offence. Reliance can be placed on paragraphs-9 and 10 of the said judgment.

7). In the above referred background, in my opinion, a case for grant of pre-arrest bail is made out by applicants no.2 and 3.

8). In view thereof, in the event of arrest of applicants no.2 and 3 in Crime No. 144 of 2015 for the offences punishable under Sections 498A, 354(A)(1) Indian Penal Code read with Section 43(a) (b) of the Information Technology Act, be released on bail on furnishing P.R. Bond of Rs.25,000/- (Rs. Twenty Five Thousand only) with one or two sureties in the like amount.

9). Applicants no.2 and 3 shall attend police station on 28th and 29th December, 2016 between 10 to 12 a.m. and thereafter as and when called.

10) Applicants shall not tamper with the evidence and/or influence the witnesses in any manner whatsoever.

(N.W. SAMBRE, J)