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IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1170 OF 2016
WITH
CRIMINAL APPLICATION NO.635 OF 2016
IN
ANTICIPATORY BAIL APPLICATION NO.1170 OF 2016

Bhupendra N. Dwivedi and ors Applicants
V/s.
The State of Maharashtra Respondent

Mr. Kuldeep U. Nikam, for the Applicants.
Mr. Arfan Sait, APP for the Respondent State.
Mr. Ankur R. Jahagirdar, I/by Sudhir Reddy, for the intervener.
Mr. S.G. Patil, PSI, Sangavi Police Station, Pune.

CORAM : A. M. BADAR, J.

DATE : 9th AUGUST, 2016.

P.C. :

1. The applicants/accused in crime No.91 of 2016, for the offence punishable under Sections 498A, 420, 504, 506 r/w 34 of the Indian Penal Code, registered with Sangvi Police Station, Pune, at the instance of Somakumari Dwivedi, by this application are praying for pre-arrest bail. Applicant Nos. 1 and 2 are the in-laws of the informant; whereas applicant No.3 is her brother-in-law. Applicant No.4 is wife of applicant No.3. All applicants are permanent resident of Fatehpur, in Uttar

Pradesh State. Applicant No.3 is stated to be combatant member of Indian Armed Forces.

2. The learned counsel for applicants, argued that the offence alleged against applicants is stated to have been committed from December, 2012 to 15.3.2016. The averments are to the effect that in September 2013, an amount of Rs.2.50 lacs was demanded from the informant to enable applicant No.1 to establish grocery shop. The averments are also in respect of cruelty to the informant by instigating the husband.

3. I also heard the learned APP. By placing reliance on the papers of investigation, the learned APP argued that now the husband has performed another marriage and the informant was cheated by extracting huge amount from her.

4. I also heard the learned counsel appearing for the intervener. He argued that interse relationship between the parties is not disputed. By taking to the grounds raised in the application, the learned counsel argued that the informant was duped by lacs of rupees by present applicants. The applicants are not co-operating the Investigating Officer. The learned counsel further argued that the amount was paid to applicants through the husband of the informant. The applicant No.2 was visiting Pune. The learned counsel argued that as applicants are from Fatehpur, they will

abscond.

5. Perused the papers of investigation, so also the F.I.R. lodged by the informant Somakumari. The allegations qua applicants are to the effect that they extracted an amount of Rs.2.50 lacs from the informant by subjecting her to cruelty, for enabling applicant No.1 to open grocery shop at Fatehpur. It is also averred that applicants used to instigate husband of the informant for subjecting the informant to cruelty. It is averred that there used to be abuses and assault by hands. What cruelty means is defined by explanation to Section 498A of the IPC. It requires harsh and harmful conduct of certain intensity and persistence. Normal bickering in married life coupled with normal wear and tear of married life cannot be termed as cruelty.

6. My attention is drawn to the bank statement of the husband which shows that the husband of the informant had deposited an amount of Rs.2.53 lacs in the account of father of the informant on 4th August, 2014. Similarly an amount of Rs.53,000/- was deposited in the account of the informant on 1.11.2014. If applicants have extracted huge amounts from the informant, then for recovery of the same, civil action lies.

7. Considering the averments as reflected from the F.I.R., as well as from the case diary, no case for custodial interrogation is made out and as the apprehension of fleeing from the course of justice is not

expressed by the informant. In this view of the matter, the following order.

Order

- I) The application is allowed.
- II) The ad interim order dated 14.7.2016 is confirmed on the same terms and conditions.

8. In view of disposal of main application, application filed for intervention by intervener is disposed of.

[A. M. BADAR, J.]