

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

ANTICIPATORY BAIL APPLICATION NO. 1297 OF 2016

Moinuddin Akhtar Upletwala	.. Applicant
Versus	
The State of Maharashtra & Anr.	.. Respondents

Mr. Sathyanarayanan, Advocate for the Applicant.
Smt. J.S. Lohohare, A.P.P. for the Respondent – State.

CORAM : N.W. SAMBRE, J.

DATED : 22nd NOVEMBER, 2016.

P.C. :

1 The applicant is seeking pre-arrest bail in Crime No.167 of 2016 for the offences punishable under Sections 498(A), 406, r/w. 34 of the I.P.C. and Section 4 of the Dowry Prohibition Act.

2 It is the case of the prosecution that the applicant was married to the complainant in 2011 and thereafter as and when demanded dowry in the various forms. It is then claimed that the applicant has sold the sridhan of the complainant which has prompted her to lodge the complaint in question out of matrimonial discord.

3 While trying to make out case for grant of bail, the learned counsel for the applicant submits that apart from initiation of the present criminal proceedings, independent proceedings under the provisions and of Domestic Violence Act and the divorce proceedings are already initiated

between the parties. As such custodial interrogation of the applicant is not called for in view of unexplained delay in lodging F.I.R. Per contra the learned A.P.P. opposed the applicant on the ground of recovery to be effected on the present applicant.

4 Having bestowed my thoughts, it is to be noted that present applicant/husband got married in 2011. The narration of the incident in the F.I.R. are from the period of the marriage till 2015. The F.I.R. came to be lodged in 2016 and there is unexplained delay.

5 It is always open for the complainant to claim return of her sridhan and other material presented during the marriage or thereafter in the Domestic Violence Act proceedings or in the divorce proceedings.

6 In this background, in my opinion, the custodial interrogation is uncalled for.

7 In the event of arrest, the applicant be released on bail on furnishing P.R. Bond of Rs.50,000/- with one or two sureties in the like amount. The applicant shall attend police station in the next week on Monday and Tuesday between 10.00 a.m. to 12.00 noon and thereafter as and when called for. The applicant shall not tamper with the evidence or influence the witnesses.

8 The application is allowed in the above terms.

(N.W. SAMBRE, J.)