

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1316 OF 2016

- | | | | |
|----|---------------------------------|-----------------|--|
| 1. | Nijo Allen Mathew |) | |
| 2. | Sosamma Varkey |) | |
| 3. | Mr. Varkey |)..Applicants | |
| | Versus | | |
| 1. | The State of Maharashtra |) | |
| 2. | Mrs. Sneha Allen Mathew @ Sneha |) | |
| | Jose Chako |).. Respondents | |

Ms. Rekha Musale i/b. Ms. Sangita S. Survase, Advocate for the applicants.
Mr. Vinod S. Chate, APP, for the State.

CORAM: SMT.SADHANA S.JADHAV,J.
DATE : 8th September, 2016.

P.C.

1. Heard. This is an application under Section 438 of Cr.P.C. The applicants herein are apprehending their arrest in C.R.No.87 of 2016 registered at Sangavi Police Station for the offences punishable under Sections 498A, 323, 504, 506, 427 read with Section 34 of IPC.

2. At the threshold, the learned counsel for the applicants seeks liberty to delete respondent Nos. 3 to 6. The amendment to be carried out forthwith.

3. It is the case of the prosecution that on 30.3.2016, the wife of applicant No.1 lodged a report at the Sangvi Police Station alleging therein that she was married to the applicant No.1 on 5.7.2015. That at the time of her marriage, her parents had given a fixed deposit of Rs.10 lakhs in the joint name of her husband and herself. They had also given 600 gms. of golden ornaments. It is alleged that her in-laws had started residing with them since 22.8.2015. According to the complainant, she was meted with cruelty and ill-treatment at the hands of her husband and her in-laws and there was a demand of Rs.25 lakhs. That since October, 2015, the applicant No.1 was coercing the complainant to agree for divorce. According to the complainant, the applicants had sold her golden ornaments and had booked a flat with the builder Pradeep Jawalkar. It is further alleged that since 18.12.2015, she is residing with her parents as there was a threat by the applicants that in the eventuality she dared to return to the matrimonial house, she would be eliminated. On the basis of the report, Crime No.87 of 2016. is registered at the police station and investigation is set in motion.

4. The learned counsel for the applicant submits that ornaments were sold at the behest of the complainant as the couple desired to book a flat. Accordingly, on 10.12.2015, there was a registered agreement to Sale

between Shantabai Dnyanu Jawalkar, the applicant No.1 and the complainant. Subsequently, the flat is registered only in the name of the complainant. According to the learned counsel, the complainant did not wish to live in the joint family along with her in-laws and therefore she had withdrawn herself from the matrimonial house and was residing with her parents. According to the learned counsel, there was no demand of dowry of Rs.25 lakhs. That the applicants desired to invest the amount of fixed deposit in assets and the complainant was also to be a beneficiary of the same. Hence, it cannot be said that the demand was made for the personal benefit of the applicant No.1 or his family members.

5. Taking into consideration the nature of allegations and the papers of investigation and the submissions advanced across the bar, it is clear that custodial interrogation in the present case would not be imperative. Hence, the applicants deserve pre-arrest bail.

6. It is made clear that the observations made hereinabove are restricted to an application under Section 438 of Cr.P.C. and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) In the event of their arrest, the applicants be enlarged on bail on each furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.
- (iii) The applicants shall report to the concerned police station as and when called and co-operate with the investigating agency to the best of their capacity.

Application is allowed and disposed of.

(SMT.SADHANA S.JADHAV, J.)