

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1455 OF 2016

1 Kusum Natha Chavan.
2 Jitendra Natha Chavan.
3 Rajendra Natha Chavan.
4 Savita Jitendra Chavan.
5 Santosh Zulal Dabhade.
6 Anusaya Zulal Dabhade. ... Applicant.
Versus
The State of Maharashtra. ... Respondents.

Mr. Sham V. Walve i/b. Mr. Swapnil V. Walve, advocate for Applicants.

Mr. S.S. Pednekar, APP for State.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : AUGUST 22, 2016**

P.C.:

1 Heard the learned Counsel for the applicants and the learned APP for State.

2 This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicants herein are apprehending their arrest in Crime No. 66 of of 2016 registered at Vadner Khakurdi

Police Station for the offence punishable under Section 143, 144, 147, 148, 149, 452, 324, 323, 504, 506 of the Indian Penal Code.

3 The applicant No. 1 happens to be the estranged wife of the complainant. The applicant Nos. 2 and 3 are sons and applicant Nos. 4 is daughter-in-law of the complainant. Applicant No. 5 is brother-in-law of the original complainant and applicant No. 6 is mother-in-law of the original complainant.

4 It is a matter of record that on 23/7/2016 present applicant No. 1 had lodged a report at the police station alleging therein that 3 months prior to July, 2016, the complainant i.e. her husband had left the house without informing anybody. On 19/7/2016, the applicant No. 1 herein alongwith her two sons and daughter-in-law had informed the sarpanch and other authorities in the village about the missing of the complainant i.e. her husband. When they went to village Vadel, at that time, they had seen the husband of the applicant No. 1. He had started abusing the applicants. He had also threatened

her of dire consequences. That he had attempted to assault her. She has sustained injury in the course of attempting to rescue herself. The applicant No. 1 had lodged FIR against her husband. On the basis of which Crime No. 58 of 2016 was registered against her husband and other relatives. Similarly on the basis of her report, Crime No. 215 of 2016 was registered against her husband for the offence punishable under Section 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

5 In this background, the husband of the present applicant No. 1 had approached the police station on 8/8/2016 and has lodged a complaint in respect of the incident dated 19/7/2016. It is alleged that the present applicants had been to his house and had assaulted him with a stick on his back. Similarly, his mother also had been pushed by the applicant No. 1 and her daughter-in-law and that she had sustained injury to her shoulder and leg.

6 The applicants are being prosecuted for offence punishable under Section 452, 324, 323, 504, 506 of the Indian Penal Code. Section 452 of the Indian Penal Code is non-bailable offence. The allegation against the present applicants appears to be an outcome of the matrimonial dispute between the family members. Hence, the applicants herein deserve relief of pre-arrest bail after taking into consideration the background of the case.

7 However, it is made clear that the observations made hereinabove are prima facie in nature and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial. The learned trial Court shall decide the matter on its own merits. These observations are restricted to an application under Section 438 of the Code of Criminal Procedure, 1973.

8 Hence, following order is passed:

ORDER

(i) The Application is allowed.

- (ii) In the event of arrest in C.R. No. 66 of 2016, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- each and one or two sureties in the like amount.
- (iii) The applicants shall report to the concerned police station as and when called by the Investigating Officer by issuing notice under Section 160 of the Code of Criminal Procedure, 1973.
- (iv) The applicants shall not tamper with the evidence.
- (v) The applicants shall furnish their residential address as well as contact number such as landline number, cell phone number etc. to the concerned Investigating Officer.

9 The Application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)