

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1651 OF 2016

Sou. Sunita Shivratana Sharma	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr.A.P.Mundargi, Senior Counsel i/b. Mr. Anup Lahoti, Advocate for the applicant.

Mr. S.S.Borkar, Advocate for the intervener.

Mr. Vinod Chate, APP, for the State.

Mr. V.S.Vabte, PSI, Nigadi Police Station, Pune, City, present.

CORAM: SMT.SADHANA S.JADHAV,J.

DATE : 4th October, 2016.

P.C.

1. Heard. This is an application under Section 438 of Cr.P.C. The applicant herein is apprehending her Crime No.562 of 2016 registered at Nigadi Police Station, Pune, for the offences punishable under Sections 376, 377. 498A, 323, 504 read with Section 34 of the IPC and Section 66 (C) & (E), 67 of the Information Technology Act.

2. It is the case of the prosecution that on 16.8.2016, the daughter-in-law of the present applicant lodged report at the police station alleging therein that she got married to the son of the present applicant on 26.11.2014. They were residing in joint family. It is

alleged that she was happy only for 10 days after the marriage. She has narrated the incident that one day her father-in-law and her husband were drinking alcohol in the hall, whereas she was cooking in the kitchen. That her husband had coerced her to consume alcohol. Thereafter, her father-in-law had attempted to outrage her modesty and had then ravished her. As far as the present applicant is concerned, the allegation levelled by the complainant is that the applicant's father-in-law had meted her with cruelty and ill-treatment and had forced her to dance in scanty clothes. That there was a demand of Rs.25 lakhs. It is alleged that the applicant herein had aided her husband i.e. the father-in-law to commit rape upon her.

3. Perused the papers of investigation. The applicant being a woman can be prosecuted for the offence punishable under Section 498-A of IPC. The applicant cannot be prosecuted for the offence punishable under Sections 376 and 377 of the IPC.

4. The learned APP submits that the applicant had aided and abetted the principal accused who are in custody. As against this, the learned Senior Counsel appearing for the applicant submits

that the complainant is a well qualified person. She has done her Masters in Business Administration. It is submitted that the discordant note had struck between the husband and wife.

5. As far as the husband and father-in-law are concerned, there is specific role attributed to them. They are in custody. The applicant herein deserves to be granted pre-arrest bail as she would be otherwise exposed to social obloquy. Her custodial interrogation would not be imperative. Hence, the applicant deserves grant of pre-arrest bail. However, as far as the role attributed to the husband and father-in-law by the complainant, they shall not claim parity with the present applicant.

6. The history given by the complainant to the doctor at the time of clinical examination clearly shows that the act of sexual abuse is attributed to father-in-law, brother-in-law and the husband.

7. The application of the co-accused shall be considered on its own merits.

8. The observations are restricted to an application under Section 438 of Cr.P.C. and shall not be considered for the purpose of deciding the application for quashing, discharge application or at the time of trial.

ORDER

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

(SMT.SADHANA S.JADHAV, J.)