IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1692 OF 2016

Shri Nilesh Ashok Pagar ... Applicant
Vs.
The State of Maharashtra … Respondent

Mr. Vivek V. Salunke,Advocate for the applicant.
Mr. Prashant Jadhav, APP, for the State.
Ms. Diksha S. Zadte, PSI, Sangavi Police Station, Pune. 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 his arrest in Crime No.242 of 2016 registered at Sangvi Police Station, Pune, on 18.7.2016 by his wife for the offences under Section 498A, 417, 377, 323, 504 read with Section 34 of the IPC.

2. It is the case of the prosecution that on 18.7.2016, the wife of the present applicant lodged a report at the police station alleging therein that she got married to the present applicant on 8.5.2015. Prior to the marriage, she was working with Tata Consultancy Services, Hinjewadi,

Pune. At the time of lodging of FIR also she was working with the same company. The applicant is the resident of Aurangabad. It is alleged that the complainant was meted with cruelty and ill-treatment at the hands of the present applicant. It is also alleged that the applicant had indulged into unnatural sex with the complainant. That there is an allegation of demand of dowry.

3. The learned counsel for the applicant has drawn attention of this Court to the petition filed by the present applicant under Section 9 of the Hindu Marriage Act before the Family Court at Aurangabad, seeking restitution of conjugal rights. It is specifically stated in the said petition that the complainant had left his house in April, 2016. The same is corroborated by the complainant in the first information report also.

4. It is pertinent to note that on 2.6.2016, the complainant had appeared before the Family Court in Petition No.187 of 2016. On 23.6.2016, the complainant had filed a petition seeking transfer of the restitution petition to the Court at Pune. The said transfer petition was filed before the High Court at Bombay, Aurangabad Bench. On 18.7.2016, the first information report was lodged against the present applicant.

5. Perused the papers of investigation.

6. The learned APP submits that in the month of July i.e. 24.7.2016, the complainant had undergone the medical examination and an opinion was given that she was subjected to unnatural sex. Hence, according to the learned APP, the applicant does not deserve grant of pre-arrest bail.

7. As against this, the learned counsel for the applicant submits that the complainant had withdrawn herself from the society of her husband ini the month of April, 2016 and the medical examination was conducted after grant of three months. It is submitted across the Bar that only to retailiate the proceedings under section 9 of the Hindu Marriage Act, the complainant has initiated criminal proceedings against the applicant.

8. The learned counsel for the applicant, upon instructions, also submits that the parents of the applicant would also co-operate with the investigating agency in the event that they are summoned by issuing a notice under Section 160 o

9. Taking into consideration the nature of allegations, the papers of investigation, the submissions advanced across the Bar, more particularly

the petition filed by the present applicant under Section 9 of the Hindu Marriage Act, the applicant herein deserves grant of pre-arrest bail.

O R D E R

(i) The application is allowed.

(ii) In the event of his arrest, the applicant be enlarged on bail on furnishing P.R. Bond ini the sum of Rs.15,000/- with one or two sureties in the like amount.

(iii) The applicant shall report to the concerned police station on 12th, 13th and 14th of October, 2016 between 10 a.m. to 12 noon and co-operate with the investigating agency to the best of his capacity

The application is allowed and disposed of.

(SMT.SADHANA S.JADHAV, J.)