

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1730 OF 2016

1. Mr. Wahid Nawab Khan.	]	
2. Anjum Adil Shaikh.	]	
3. Shafikur Rehman Shaikh.	]	
4. Mohammad Ahsanjan Mohammad Shaikh.	]	... Applicants
Versus		
The State of Maharashtra.	]	... Respondent

Mr. H. S. Shinde for Applicants.

Mr. N. S. Jain, APP for State.

CORAM :- N. W. SAMBRE, J.

DATE :- DECEMBER 20, 2016

P. C. :-

1. The applicants are seeking pre-arrest bail in C.R.No.284/16 registered with Meghwadi Police Station, Jogeshwari, for the offences punishable under Sections 498A, 406, 323, 504 and 506 r/w 34 of IPC.

2. The marriage of the applicant was solemnized on 31/07/2016 with complainant Shahista Khan. It is claimed in the FIR that the complainant was driven out of the house as she and her parents failed to meet with the demand of dowry, resulting in registration of crime.

3. The applicant nos.1 and 2 are the husband and sister-in-law of the complainant respectively, applicant no.3 is the middleman and applicant no.4 is the brother-in-law of the complainant.

4. The learned Counsel for applicants relied upon the confessional statement made by the complainant / victim on 24/08/2016 to Sr.P.I., Meghwadi Police Station, Jogeshwari, and also to Khwaja Garib Nawaz Trust, Mira Road (East), Thane, on 25/08/2016, stating that she had extra-marital affair with one person and as such she did not wish to live in the company of her husband - applicant no.1. The learned Counsel for applicants submits that necessary ingredients of the sections under which the offences are registered, are not satisfied. As such according to him, the applicants are entitled for pre-arrest bail

5. The learned APP invited my attention to the statements of the victim, her father, her sisters, etc. so as to submit that the alleged statements which are relied upon by the applicants, were extracted from the complainant under force and coercion. He submitted that there is cognizable offence made out.

6. So far as applicant nos.2, 3 and 4 are concerned, there is hardly any material, inferring their *prima-facie* involvement in the crime in question. As such, in my opinion, they are entitled to be released in the event of their arrest.

7. So far as the applicant no.1 - husband is concerned, it is within period of 3 days from the date of marriage the FIR came to be lodged when the applicants claimed to have driven the complainant out of her matrimonial house as she and her parents have failed to comply with the demand of dowry i.e. bike and other material, etc.

8. The fact that the incident took place immediately after the marriage, the statements of the complainant and her father depicting the alleged confession which are relied upon by the applicants, are extracted from her under force and the satisfaction of the necessary ingredients under Section 498A, in my opinion, disentitle the applicant no.1 to be release on pre-arrest bail. As such, the application of applicant no.1 stands rejected.

9. So far as the applicant nos.2, 3 and 4 are concerned, in my view, their custodial interrogation is not required. Hence the following order :-

- (i) In the event of arrest of the applicant nos.2, 3 and 4 in C.R.No.284/16 registered with Meghwadi Police Station, Jogeshwari, for the offences punishable under Sections 498A, 406, 323, 504 and 506 r/w 34 of IPC, they shall be released on executing PR Bond in the sum of Rs.10,000/- each with one or two sureties in the like amount.
- (ii) The applicant nos.2, 3 and 4 shall attend the concerned police station as and when called.
- (iii) The applicant nos.2, 3 and 4 shall not tamper with the prosecution evidence and / or influence the prosecution witnesses.

(N. W. SAMBRE, J.)