

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1939 OF 2015

Shri Atul Shantilal Gada	... Applicant
Vs.	
The State of Maharashtra & anr.	... Respondents

Mr.M.K. Kocharekar for the Applicant
Mr.S.H. Yadav, APP, for Respondent – State
Mr.Ranjeet Sangle i/b S.H. Bhaskarrao for Resp. No.2

CORAM: **MRS.MRIDULA BHATKAR, J.**

DATE: **MARCH 31, 2016**

P.C.:

1. The application is moved for pre-arrest bail as the applicant-accused is facing prosecution for the offences punishable under sections 377, 498A, 406, 506, 504, 323 r/w 34 of the Indian Penal Code, which is registered at C.R. No.246 of 2015 with Juhu police station, Mumbai, at the instance of the wife on 9.7.2015. It is the case of prosecution that the applicant-accused and the complainant wife had a love marriage on 26.11.1996. Thereafter, the applicant-accused started harassing her from 1998. He was suspicious throughout about her character. He had taken Rs.20 lacs from her mother. It is her case that his behaviour with her was objectionable as he used to suspect her relations with their friends. He imposed forcible intercourse on her and also was in habit of unnatural sexual intercourse. The behaviour of the applicant-accused with the complainant wife was cruel. He has also taken away her ornaments and her passport and hence, the offence is registered against the applicant-accused at C.R. No.246 of 2015 at Juhu police station.

2. The learned Counsel for the applicant has submitted that after 19 years of marriage, the offence is registered. They have one daughter aged 15 years. He further submits that there is a joint locker which operated by both of them. Whatever ornaments are there in the said locker be taken by the complainant wife and she can also take her passport and other documents as mentioned in the FIR.

3. Learned Prosecutor as also the learned Counsel for the complainant have opposed the application. The learned Counsel for the complainant objected to the pre-arrest bail application and has submitted that the applicant was very cruel with her and it is an offence u/s 377 of the Indian Penal Code. Hence, pre-arrest bail is to be rejected. He further submitted that the police investigation is dishonest and the Investigating Officer did not register the crime against the applicant-accused immediately when she gave her written complaint to the police in the year 2014.

4. Perused the FIR. In view of the allegations made in the FIR and sections under which the case is registered, I am of the view that custodial interrogation of the applicant-accused is not required and hence, I am inclined to grant pre-arrest bail on the following terms:

- i) In the event of arrest, the applicant-accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,000/- with one or two solvent sureties in the like amount;
- ii) The applicant-accused shall cooperate with the Investigating Officer and attend the concerned police station on every Tuesday from 11th April, 2016 till 11th May, 2016 between 6pm and 7pm or till filing of the chargesheet, whichever is earlier;

- iii) The applicant-accused shall not tamper with the evidence or pressurise or harass the complainant;
- iv) The applicant-accused shall not indulge into any criminal activity;
- v) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address;
- vi) The ornaments in the locker shall be verified together and the articles are to be exchanged upon verification;
- vii) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

5. Anticipatory Bail Application is disposed of on the above terms.

(MRIDULA BHATKAR, J.)