

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

**CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 12 OF 2017**

Jawaharlal Ramshankar Vishwakarma. ... Applicant.

Versus

The State of Maharashtra. ... Respondent

Mr. G.T. Kanchanpurkar, advocate for applicant.

Mr. R.M. Pethe, APP for State.

**CORAM : SMT. SADHANA S. JADHAV, J  
DATE : JANUARY 5, 2017.**

**PC.**

1 Heard the learned Counsel for applicant and the learned APP for State. Perused the papers.

2 This is an application under section 438 of the Code of Criminal

Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 241 of 2016 registered at Boisar Police Station, Palghar.

3 It is the case of the prosecution that the sister-in-law of the present applicant lodged first information report against the applicant alleging therein that he had misbehaved with her. It appears that informant is married to the brother of the applicant in the year 2001 and she was residing in her matrimonial house since 2003 to 2015. It is alleged that sometimes in the year 2013, the applicant had outraged the modesty of the first informant. In May 2015, the first informant had left the matrimonial house and started residing with her parents. Initially, the report was lodged against the present applicant and others for offence punishable under section 498A, 323 of the Indian Penal Code.

4 It further appears from the record that the husband of the first

informant has filed divorce petition against his wife i.e. the first informant at Sidharth Nagar. The learned Counsel for the applicant submits that being aggrieved by the same, the first informant has arraigned all the members of the matrimonial home in false case like the present one. That there is no plausible explanation for the inordinate delay in lodging FIR. The statement of the first informant was recorded under section 164 of the Code of Criminal Procedure, 1973. On 16/12/2016 husband and father in law of the first informant were arrested and they have been enlarged on bail.

5 The learned Counsel for the applicant rightly submits that a matrimonial dispute has been blown out of proportion to allege heinous offence against present applicant as he happens to be the brother of the husband of the first informant.

6 Taking into consideration the papers of investigation and the

background of the case, this Court is of the opinion that the applicant deserves pre-arrest bail.

7     However, it is made clear that the observations made herein above are restricted to the application under section 438 of the Code of Criminal Procedure, 1973 and shall not be considered at the time of deciding the application for discharge or quashing of FIR or at the time of trial.

8     Hence, the following order is passed :

**ORDER**

- (i)    The application is allowed.
- (ii)   In the event of arrest in Crime No. 241/16, the applicant be enlarged on bail on furnishing PR. Bond in the sum of Rs. 25,000/- and one or more solvent local sureties in the like amount.
- (iii)   The applicant shall report to the concerned police station as and

when called after issuing notice under section 160 of the Code of Criminal Procedure, 1973.

9 The application is disposed of accordingly.

**(SMT. SADHANA S. JADHAV, J)**