

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 309 OF 2017

Samarth U. Shirke.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. R.B. Mokashi, advocate for Applicant.

Mr. M.G. Patil, APP for State.

CORAM : SMT. SADHANA S. JADHAV, J
DATE : FEBRUARY 17, 2017

P.C.:

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

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. 627 of 2016 registered at Manpada Police Station for offence punishable under section 498A, 306 read with section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 7/10/2016 Mrs. Hira Mahadeo Gurav lodged a report at the police station alleging therein that her daughter Neelam was married to the brother of the present applicant on 8/12/2013. It is alleged that there used to be trifling quarrel between the couple over small issues such as ignorance, welfare of their daughter etc.

4 It is alleged that Neelam had disclosed to the first informant that she was being harassed at the hands of the present applicant who happens to be brother-in-law of deceased Neelam. The specific allegation against the present applicant is that he used to not only stay at the house of the deceased but used to being his girl friend, which was not liked by the deceased. She disapproved of his conduct and nagged about the same and hence, she was harassed. It is alleged that the husband of the deceased also used to encourage the present applicant. It is the present applicant used to abuse the deceased and assault the deceased.

5 The applicant could be liable for offence under section 498A of the Indian Penal Code. However, he could not be directly held liable for offence punishable under section 306 of the Indian Penal Code. It is in these circumstances and in view of the guidelines of the Hon'ble Supreme Court in the case of **Arnesh Kumar v/s. State of Bihar (2014) 8 SCC 273**, the applicant herein deserves to be granted pre-arrest bail.

6 However, the observations are restricted to the application under section 438 of the Code of Criminal Procedure, 1973 and shall not be considered while deciding application for quashing of FIR or discharge or at the time of trial.

7 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 627/16 registered with Manpada Police Station, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or more solvent sureties in the like amount.
- (iii) The applicant shall attend the concerned police station on 24/2/2017 to 1/3/2017 everyday between 10.30 a.m. to 1 p.m. and cooperate with the investigating agency to the best of his capacity.

8 The applicant is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)