

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 509 OF 2017

Office Notes, Office Memorandum of Coram, appearances, Court's orders or directions and Registrar's orders	Court's or Judge's orders
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Mr. Milan Desai i/by T.R.Patel for the Applicants in both the applications.

Mrs. J.S.Lohokare, APP for the Respondent-State.

CORAM :A.S.GADKARI, J.

DATE : 25th April, 2017

P.C.

1) The applicant is apprehending arrest in CR No.34 of 2017 registered with Samata Nagar Police Station, Mumbai under Section 498A, 406, 420, 509, 493, 494, 495, 504, 504 of the Indian Penal Code.

2) The first information report is lodged by Smt. Sangita Bagade wife of the applicant. It is the allegation against the applicant that the applicant without disclosing the fact that he is already married, performed the present marriage. That, the applicant and his family members caused harassment to the first informant. That, the applicant deceitfully took the ornaments of the first informant and induced the first informant to transfer the house and the landed property in his own name and has caused continuous harassment to the first informant. In the premise, the first information report is lodged.

3) The learned counsel or the applicant submitted

that the allegations made by the first informant in the FIR are false and frivolous allegations that the first informant has not given any description of the ornaments which she alleged that have been retained by the applicant. He further submitted that for the recovery of the ornaments custody of the applicant is not necessary. He submitted that the applicant therefore be granted pre-arrest bail.

4) At the out set, it is noted that in the case of Gurbaksh Singh Sibbia and ors. Vs. State of Punjab reported in (1980) 2 SCC 565 while analyzing the provisions of Section 438 of the Cr.P.C. the Apex Court has held that each and every case has to be decided in view of the facts and circumstances of each case on such conditions as the case may warrant.

5) I have perused the first information report and the documents pertaining to investigation of the crime. The applicant was granted interim relief by this Court by its order dated 23.3.2017. The record of investigation reveals that though the applicant attended the Investigation Officer did not co-operate the Investigation Officer. The ornaments which are alleged to have retained by the applicant are yet to be recovered by the Investigation Officer. Same is not possible without there being thorough interrogation of the applicant. The allegations made against the applicant undoubtedly are serious in nature. The learned Additional Sessions Judge while rejecting the anticipatory bail application preferred by the applicant in its order dated

10.3.2017 has observed that “it appears that the applicant is in habit to perform marriages with the ladies in order to grab their property and their ornaments”. After perusal of the record of investigation it appears that there is substance in the said observations.

6) After taking into consideration the serious allegations against the applicant and the gravity of the offence, in view of this Court, the applicant does not deserve to be protected by pre-arrest bail. Application is accordingly rejected.

7) At this stage the learned counsel for the applicant submitted that his client intends to test the correctness of the present order before the Apex Court and therefore, interim relief granted by this Court may be continued for a period of four weeks from today. At his request the interim relief granted by an order dated 23.3.2017 is continued for four weeks from today.

(A.S.GADKARI, J.)