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

ANTICIPATORY BAIL APPLICATION NO.662 OF 2017

- | | | |
|--------|--------------------------|----------------|
| 1. | Mangesh Khoda Ahir | |
| 2. | Dudhi Khoda Ahir | |
| 3. | Khoda Laxman Ahir | |
| 4. | Ravi Khoda Ahir | |
| 5. | Chaya@ Kavita Ravi Ahir | ...Applicants |
| Versus | | |
| 1. | The State of Maharashtra | |
| 2. | Jyostna Mangesh Ahir | ...Respondents |

Mr.A.M.Savagave, for the Applicants.

Mr.R.M.Pethe, A.P.P for the Respondent No.1-State.

Mr.S.S.Upadhyay, for the Respondent No.2-Original Complainant.

PSI - Ms.Vijaya K. Goswami, Goregaon Police Station, Mumbai.

CORAM : REVATI MOHITE DERE, J.

DATE : 11th SEPTEMBER, 2017

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicants seek pre-arrest bail in connection with C.R. No.436 of 2016 registered with the Goregaon Police

Station, Mumbai, for the alleged offences punishable under Sections 504, 323, 406, 498A of the Indian Penal Code.

3. Learned Counsel for the applicants submits that the allegations as against the applicants are false and baseless. He submits that the complainant left the matrimonial house on her own accord in September, 2015. He submits that the applicant No.3-Khoda Laxman Ahir had infact informed the concerned Police Station on 17th October, 2015 that the complainant had left the matrimonial house on 26th September, 2015 with her gold ornaments, silver utensils, documents etc. He submitted that the applicant No.1 had filed divorce proceedings in January, 2016, pursuant to which, the aforesaid complaint was lodged on 12th October, 2016.

4. Learned APP as well as learned counsel for the respondent No.2/original complainant opposed the application. Learned Counsel for the respondent No.2/original complainant has filed an affidavit of the original complainant. The same is taken on record.

5. Perused the papers. The applicant No.1 is the husband of the

complainant i.e respondent no.2; applicant No.2 is the mother-in-law, applicant No.3 is the father-in-law; applicant No.4 is the brother-in-law and applicant No.5 is the wife of the applicant No.4 and co-sister of the complainant. According to the complainant – Jyostna Mangesh Ahir, she got married to applicant No.1 on 12th February, 2001. She has stated that from the said wedlock, the couple had 2 children. She has alleged that after marriage her husband would abuse her and even assault her. She has alleged that the applicant would consume alcohol and would assault her on some pretext or the other. She has alleged that applicant No.1 had asked her to bring money for purchasing motorcycle and when she refused, he assaulted her. She has stated that in September, 2015, she left the matrimonial house, as the applicant No.1 was demanding a motorcycle from her parents. A perusal of the FIR shows that the allegations are essentially as against applicant No.1 (husband). It is not in dispute that the complainant (respondent No.2) left the matrimonial house in September, 2015 and that in January, 2016, the applicant No.1 filed proceedings for divorce in the Kalyan Court and pursuant thereto, in October, 2016, the aforesaid FIR was lodged by the respondent No.2. Although, it is alleged that Stridhan of the complainant is with the applicants, in the letter dated

17th October, 2015, addressed by the applicant No.3-Khoda Laxman Ahir to the Senior Police Inspector of Dombivali Police Station, it is mentioned, that when the complainant (respondent No.2) left her matrimonial house, she had taken away her ornaments, silver utensils, documents etc. The applicant No.3-Khoda Laxman Ahir has also made several allegations as against the complainant (respondent No.2). Whether or not the Stridhan has been returned to the complainant (respondent No.2), is a matter which will be decided by the trial Court.

6. In the facts of the case, custodial interrogation of the applicants is not required. Accordingly the application is allowed and the applicants are granted pre-arrest bail on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicants be enlarged on bail on executing P.R. Bond in the sum of Rs.10,000/- each, with one or two sureties in the like amount ;
- (ii) The applicants shall report to the Investigating Officer of the

concerned Police Station as and when called, till the filing of the charge-sheet or for a period of three months from today, whichever is earlier.

7. The Application is allowed in the aforesaid terms and is accordingly disposed of.

8. It is made clear, that the observations made herein are *prima facie* and are confined to this application.

9. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)