

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

ANTICIPATORY BAIL APPLICATION NO. 734 OF 2017

Mr. Manoj Suryavanshi ... Applicant

V/s.

State of Maharashtra and Anr ... Respondents

.....

Mr. Vivek Sharma, Ms. Nuzhat Shaikh for the Applicant.

Mr. Makarand G. Patil, APP for State.

CORAM : A.M. BADAR, J.

DATE : 4TH OCTOBER, 2017.

P.C. :

1. The applicant/accused in Crime No. 67 of 2017 registered with Police Station Oshivara for the offences punishable under Sections 498(A), 323, 504 read with Section 34 of the Indian Penal Code, at the instance of First Informant Ruchira by this application is seeking pre-arrest bail.

2. Heard the learned advocate appearing for the applicant/accused. He drew my attention to the First Information Report (FIR) lodged by the First Informant/Wife and argued that considering the nature of the averments made in the application

custodial interrogation of the present applicant is not warranted. The learned APP opposed the application by contending that case of the present applicant reflected in the FIR amounts to cruelty to a married woman and therefore, the applicant is not entitled for pre-arrest bail.

3. I have carefully considered the rival submissions and also perused the case diary. The applicant married First Informant Ruchira on 20/09/2016 and then the couple started residing in matrimonial house shared by relatives of the applicant. From October, 2016, the applicant and the First Informant started residing in a flat at Virar. As per the averments in the FIR, the First Informant had purchased household articles worth Rs. 1.38 Lacs at the instance of her husband i.e. the present applicant.

4. So far as the alleged acts of cruelty are concerned, as per the First Informant, at the time of marriage of the couple, for solemnizing the marriage as per Hindu Rites, the applicant and his relatives have insisted the First Informant to take a loan of Rs. 5 lac and that amount was spent on marriage. The First Informant further averred that then her husband as well as in-laws were putting

restrictions on her eating as well as clothing habits. She was prevented from wearing jeans and insistence was to wear Salwar and Kurta. She was asked to return to her matrimonial house by 7.00 p.m. It is further averred that the First Informant was prevented from meeting her parental relatives and she was prevented from talking to her friends.

5. According to the prosecution case in October 2016, the applicant returned to his house after consuming liquor. When the First Informant protested, he forcibly made the First Informant to consume liquor and assaulted her by means of a stick. There was an attempt to drive her out of the house. The applicant according to the First Informant indulged in quarreling with her.

6. So far as eating and clothing habits are concerned, photographs at Exhibit-D filed by the applicant are eloquent to put light on this aspect. According to the applicant, the First Informant is seen having a cigarette in her hand as well as glass of drink. This is not the stage to dwell upon all these aspects.

7. The cruelty as explained in explanation to Section 498(A) of the Indian Penal Code requires harsh and harshful conduct of

certain intensity persistence. Each and every act in a married life does not amount to cruelty. There is difference between domestic cruelty and legal cruelty as defined by explanation to Section 498(A) of Indian Penal Code. Harsh and harmful conduct must be of such a nature so as to drive a married woman to commit suicide or to cause grave danger to her life and limb. These aspects will have to be adjudicated at the time of trial by verifying whether acts complain of amounts to legal cruelty or not.

8. Suffice to state that considering the nature of averments made in the FIR as well as the nature of offences alleged against the present applicant, his custodial interrogation is not at all warranted. In this view of the matter the following order:

ORDER

- (i) The order dated 19/06/2017 granting pre-arrest bail to the present applicant is confirmed on the same terms and condition.
- (ii) In addition, till filing of the charge-sheet, the applicant should report concerned police station as

and when directed by a written notice for the purpose of investigation.

- (iii) As a condition of this order, the applicant should not make any threat, promise or inducement to any person including the First Informant who are acquainted with the facts of the case against him, so as to dissuade them from disclosing such facts to the Court or to the Police Officer.
- (iv) The application is disposed off accordingly.

(A.M. BADAR, J.)