

Nalawade

FARAD CONTINUATION SHEET No.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1238 OF 2016

Mr. Santosh Karia Shetty and anr. ...Applicants.

vs.

The State of Maharashtra ...Respondent.

Mr.Arun Panikar along ith Rupali Akolkar i/by Ravi Kotian fr
the applicants.

Ms. Naina Desai for the Intervener.

Ms. Jyoti S.Lohkare,APP for the Respondent-State.

CORAM :A.S.GADKARI, J.

DATE : 5st April, 2017

P.C.

1) The applicant was granted interim relief by an order dated 1.8.2016. The applicant is the husband of the complainant. The first information report is lodged by Smt. Dimple Shetty and based on the said report police have registered CR No.132/2016 registered with D.N. Nagar Police Station under section 498A and 506 of the Indian Penal Code. As this Court had on earlier occasion felt that the crime alleged against the applicant by the complainant is arising out of matrimonial discord and therefore, this Court made an attempt to settle the matter through the process of mediation and accordingly Shri. D.R. Shetty, Dy. Registrar and a Judge trained Mediator was appointed to act as Mediator. The learned Mediator has submitted his report dated 16.11.2016 that the parties could not compromise the matter and the mediation is unsuccessful. In view thereof, the present application is taken up for hearing.

2) As per the first information report the allegation against the applicant is that on 7.7.2011 the applicant got married with the complainant. That, after their marriage the applicant and the complainant started a call center company namely Sinestar International Co. Ltd. at Andheri (W) and opened a joint account in the Indusind bank at Lokhandwala complex, It is the allegation that he siphoned off substantial funds of the company without the knowledge of the complainant. It is further allegation that after complainant became pregnant, the applicant cause physiological harassment to her and due to which there was abortion. It is the further allegation of the applicant that the applicant used to abuse the complainant and did not support her. That the applicant also did not provide any money to the complainant for the day to day household expenses. That the applicant had on earlier occasion assaulted the complainant for which NC No.3933/2015 under Section 323, 504 and 506 has been lodged. That, the applicant continued to abuse and harass and beat the complainant and therefore, on 9.1.2016 again one NC complaint No.96/2016 under section 323, 504, 506 has been registered with D.N. Nagar Police Station. It is stated in the report that the applicant has taken away sridhan of the complainant and did not return despite repeated demands. In the premise, the first information report is lodged.

3) The learned counsel for the applicant submitted that the complainant has falsely alleged that her sridhan was retained by the applicant. As a matter of fact, the complainant

has taken away her sridhan and the allegations made to that effect in the complaint are false allegations. He further submitted that as far as the company started by the applicant and the complainant is concerned and the applicant had withdrawn funds from time to time, he submitted that the parties herein made lot of attempts to reconcile the situation however, only because of the complainant, settlement could not take place. He submitted that in a matrimonial dispute, custodial interrogation of an accused is not necessary. He therefore prayed that the applicant may be granted pre-arrest bail.

4) The learned APP on instructions from the Investigation Officer submitted that in pursuance of the order dated 11.8.2016 the applicant though attended the Investigation Officer did not co-operate in the process of investigation. The applicant did not produce the shridhan i.e. the ornaments mentioned in the first information report and gave evasive replies to the questions put to him, during the course of interrogation. She, on instructions, submitted that the custodial interrogation of the applicant is necessary for recovery of the ornaments and also to unearth the truth behind siphoning of the funds of the said company. She therefore,prayed that the present application may be rejected.

5) I have perused the document annexed to the application and the record pertaining to the investigation of the present crime. The record revels that though the applicant attended the Investigation Officer on some occasions he did not

produce the said ornaments mentioned in the first information report. The applicant has also not disclosed the Investigation Officer, about fact of withdrawing of the amount from the joint account of company as alleged by the complainant. In view thereof for the recovery of the ornaments and sridhan mentioned in the FIR and to unearth the facts behind siphoning of the funds of the joint account of the afore-stated company custodial interrogation of the applicant is necessary.

6) After taking into consideration the serious allegations against the applicant and his non co-operation with the Investigating Agency during the intervening period according to me disentitles him for the protection of pre arrest bail. Application is accordingly rejected.

7) At this stage, the learned counsel made a request that the interim protection granted by this Court may be extended by further four weeks. In view of the fact that the applicant is granted interim relief since 1.8.2016, hence, the interim relief to continue for a period of two weeks from today.

(A.S.GADKARI, J.)