

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1248 OF 2016

Sumit Ramchandra Sabherwal. ... Applicant.
Versus
The Senior Inspector of Police,
Versova Police Station, Mumbai & anr. ... Respondents.

Mr. Rizwan Merchant i/b. Rizwan Merchant & Association, advocate
for Applicant.

Mr. Prashant G. Pandey, advocate for complainant.

Ms. J.S. Lohokare, APP for State.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : FEBRUARY 6, 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. 237 of 2016 registered at Varsova Police Station for offence

under section 498A, 406, 377, 376, 313 of the Code of Criminal Procedure, 1973. The applicant herein was granted interim relief by this Court vide order dated 27/7/2016. The learned Counsel for the complainant submits that custodial interrogation would be imperative for the purpose of recovery of stridhan and other belongings of the complainant as well as a cash of Rs. 15 Lakhs and ornaments worth Rs. 75 Lakhs.

3 Initiation of criminal prosecution is not for the purpose of recovery. Registration of the offence is an outcome of matrimonial dispute. There are proceedings pending before the parties before the Family Court as well as before the Magistrate under the provisions of Protection of Women from Domestic Violence Act, 2005. For the reasons assigned in the order dated 27/7/2016, the orders granting interim relief deserves to be confirmed.

4 However, observations as well as grant of relief under section 438 of the Code of Criminal Procedure, 1973 shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

5 Hence, following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 237 of 2016, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or more sureties in the like amount.
- (iii) The applicant shall not leave India till framing of charge without prior permission of the Court.

6 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)