

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1258 OF 2016

Ms. K.H. Rajani i/b. Mr. Jaideep Thakker, advocate for Applicant.

Mr. C.K. Talekar, advocate for org. complainant/intervenor.

Ms. Veera Shinde, APP for State.

P.C.:

2 This is an application under section 438 of the Code of Criminal
Procedure, 1973. The applicants herein are apprehending their
arrest in Crime No. 56 of 2016 registered at Malad Police Station for

offence punishable under section 498A, 354 read with section 34 of the Indian Penal Code.

3 The applicants herein happen to be the in-laws of the complainant Prerana. The applicants were granted interim protection by order dated 26th July, 2016. It is not the case of the prosecution that the applicants have committed breach of any condition imposed upon them.

4 The learned Counsel for the intervenor submits that the son of the present applicants has not cooperated with the investigating agency or has not actively participated in the mediation proceedings. It is also submitted that son of the present applicants has fled to U.S. The prosecution would be at liberty to take appropriate steps to secure presence of the son of the applicants.

5 After considering the merits of the matter, the applicants were granted interim relief. The Hon'ble Apex Court in the case of **Arnesh Kumar v/s. State of Bihar (2014) 8 SCC 273** has observed thus :

“There is phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. [Section 498-A](#) of the IPC was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that [Section 498-A](#) is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grand-fathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested. Arrest brings humiliation, curtails freedom and cast scars forever. The existence of the power to arrest is one thing, the justification for the exercise of it is quite another. No arrest can be made in a routine manner of a mere allegation of commission of an offence made against a person.”

6 In view of the guidelines issued by the Hon'ble Apex Court, the interim relief granted vide order dated 26th July, 2016 deserves to be confirmed on the same terms and conditions which are as follows :

(i) In the event of arrest of applicants in Crime No. 56 of 2016 registered with Malad Police Station, they be released on bail on their executing P.R. Bond in the sum of Rs. 20,000/- each, with one or more sureties in the like amount.

(ii) The applicants shall report to the concerned police station as and when called after issuing notice under section 160 of the Code of Criminal Procedure, 1973.

7 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)