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

ANTICIPATORY BAIL APPLICATION NO.1321 OF 2016

Abhishek Sabhapati Upadhyay	...Applicant
Versus	
The State of Maharashtra	...Respondent

Ms.A.A.Shreshtha, for the Applicant.

Mr.V.V.Gangurde, A.P.P for the Respondent-State.

CORAM : REVATI MOHITE DERE, J.

DATE : 9th AUGUST, 2017

P.C. :

1. Heard learned Counsel for the parties.
2. By this application, the applicant seeks pre-arrest bail in connection with C.R. No.309 of 2015 registered with the MIDC Police Station, Mumbai, for the alleged offences punishable under Sections 498A, 406, 211, 34, 120B of the Indian Penal Code.
3. Learned Counsel for the applicant submitted that the allegations as against the applicant are false and baseless. She submitted

that the applicant does not have the streedhan of the complainant and that she had herself taken the same. She submitted that infact, as the complainant being of quarrelsome nature the applicant and his mother were constrained to lodge Ncs' against her with the MIDC Police Station. She submitted that on one such occasion, when the complainant was assaulting their minor son, aged 2 years 7 months, the applicant intervened and prevented her from doing so, and hence the complainant assaulted the applicant on his head, with a rolling pin. She submitted that pursuant thereto, the applicant was required to take treatment in Holy Spirit Hospital, for his head injury. She submitted that on the next day, the applicant went to the MIDC Police Station, and lodged a complaint, however, the police refused to register the FIR and only registered an NC, as against the complainant. Learned Counsel for the applicant relied on the NC dated 23rd May, 2016 registered with the MIDC Police Station. She further submitted that the applicant had also made a grievance against the duty officer for non-registration of the FIR to the Senior P.I. of the MIDC Police Station and the DCP. She relied on the documents, which are at Exhibit – J to the application. She further submitted that the applicant had reported to the Investigating Officer of the concerned Police Station, as

directed by this Court vide order dated 4th August, 2016.

4. Learned APP does not dispute the fact, that pursuant to the interim protection granted by this Court vide order dated 4th August, 2016, the applicant had reported to the Investigating Officer of the concerned Police Station. Infact, the parties were referred to a Mediator, however, mediation has failed.

5. Perused the papers. The applicant is the husband of the complainant – Swati. The aforesaid complaint has been lodged by the complainant-Swati, as against the applicant (husband) and two others. The other two co-accused have been enlarged on bail. The applicant and the complainant got married on 11th February, 2012 and there is one issue, from the said wedlock. The incidents pertain to August, 2012, March, 2014, November 2014, and May, 2016. The complainant has alleged that on 1st June, 2016, she was informed that the applicant and his mother were trying to falsely implicate the complainant in a theft case, that she had taken her streedhan and articles given by her father, when infact the applicant had her streedhan and articles valued at Rs.8 lakhs. There are

NCs' lodged by both the parties, against each other. There is a dispute whether the streedhan has been taken by the complainant or not. According to the applicant, the complainant had herself taken her streedhan and other articles, whereas, according to the complainant, the same is with the applicant.

6. Be that as it may, whether the streedhan is returned or not, is a matter which will be decided by the trial Court. In the peculiar facts of this case, considering the nature of allegations, the application is allowed and the applicant is granted pre-arrest bail on the following terms and conditions :

ORDER

- (i) In the event of the arrest, the applicant be enlarged on bail on executing P.R. Bond in the sum of Rs.20,000/- with one or two sureties in the like amount ;
- (ii) The applicant 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, whichever is earlier;

(iii) The Applicant shall inform his latest place of residence and mobile contact number and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the Investigating Officer of the concerned Police Station, in writing.

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.)