

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1328 OF 2016

1 Nandkumar Yelappa Nandurkar.
2 Mrs. Sharda Nandkumar Nandurkar
3 Sanjaykumar Nandkumar Nandurkar.
4 Mrs. Madhura Chetan Kanolkar.
5 Chetan Kanokar. ... Applicants.

Versus

The State of Maharashtra & anr. ... Respondents.

WITH

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1374 OF 2016

Anandkumar Nandkumar Nandurkar. ... Applicant.

Versus

The State of Maharashtra. ... Respondent.

Ms. Swapna Kode, advocate for Applicants.

Mr. Arvind M. Bhalerao, advocate for respondent No. 2.

Mrs. P.P. Shinde, APP for State.

Mr. D.R. Patil, PSI, Dahisar Police Station.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : JANUARY 31, 2017**

P.C.:

1 Heard the learned Counsel for the applicants and the learned APP for State. Perused the papers.

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. 245 of 2016 registered at Dahisar Police Station for the offence punishable under section 498A, 323, 504, 506 read with Section 34 of the Indian Penal Code.

3 The criminal proceeding is an outcome of the matrimonial dispute. Hence, the matter was referred for mediation. Unfortunately, the mediation has failed. The learned Counsel for the applicants submits that only after the applicant in Criminal Application No. 1374/2016 had filed a divorce petition, the first informant has lodged FIR against all the members of her matrimonial family. It is also submitted that mediation proceedings are pending before the family court as well as the court at Dindoshi as against these litigants.

4 The learned Counsel for the complainant submits that the applicants herein are in the habit of cheating. That at the time of marriage, they had posed that they were economically sound. Subsequently, the victim would realise that they have been cheated. It is also submitted by the learned Counsel for the complainant that till filing of the anticipatory bail they had no knowledge that the divorce petition had been filed.

5 Be that as it may, in view of the guidelines of the Hon'ble Apex Court in the case of **Arnesh Kumar v/s. State of Bihar (2014) 8 SCC 273**, this Court is inclined to grant pre-arrest bail in the favour of the applicants. The parties to the petition shall continue with the mediation proceedings before the family court as well as the court of Dindoshi and the proceedings pending under the provisions of Protection of Women from Domestic Violence Act.

6 The observations made in these applications shall not be taken into consideration in any of the proceedings pending before the Family Court taking up Domestic Violence proceedings.

7 Hence, the following order is passed :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 245 of 2016 registered at Dahisar Police Station, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- each and one or more sureties in the like amount.
- (iii) The applicant shall report to the concerned police station as and when called after issuing notice under section 160 of the Code of Criminal Procedure, 1973 and shall cooperate with the investigating officer to the best of their capacity.

8 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)