

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1361 OF 2016

Shrikant Ulhas Pansare

.... Husband/Applicant

Versus

1. State of Maharashtra
through Kalachowki Police Station.

.... Respondent No.1

2. Mrs. Sonali Shrikant Pansare

.... Respondent No.2/
Orig.Complainant.

Mr. Satyaram R. Gaud for Applicant.

Mr. Mishra Ditendra Kumar for Respondent No.2.

Mrs. P. P. Shinde, APP for Respondent No.1/State.

Mr. V.H.Gholap, Police Constable, Kalachowky Police Station,
Mumbai.

CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 24TH JANUARY, 2017.

P.C.

. Heard. This is an application under section 438 of Cr.P.C.
The applicant herein is apprehending his arrest in Crime No. 142 of
2016 for offence punishable under Sections 498-A, 406, 343, 504,
34 of Indian Penal Code registered at Kalachowki Police Station.

2. The applicant herein happens to be the husband of the first informant i.e. Mrs. Sonali Pansare. The applicant herein has been protected by the order of this court since 9th August, 2016. The learned counsel appearing for the complainant submits that his custody will be required to recover the articles of stridhan. The learned counsel for applicant placed on record house search panchanama dated 17th August, 2016 wherein it is contends that the articles belonging to the present complainant have been returned to her. It is the matter of record that the applicant herein has filed a divorce petition against his wife which is pending before the Family Court at Bandra.

3. Taking into consideration the nature of allegations, the fact that the stridhan articles have been returned and in view of the guidelines of the Hon'ble Apex Court in the case of Arnesh Kumar Vs State of Bihar AIR SC 2756 which read thus;

“7. Arrest brings humiliation, curtails freedom and cast scars forever. Law makers know it so also the police. There is a battle between the law makers and the police and it seems that police has not learnt its lesson; the lesson implicit and embodied in the Cr.PC. It has not come out of its colonial image despite six decades of independence, it is largely considered as a tool of harassment, oppression and surely not considered a friend of public. The need for caution in exercising the drastic power of arrest has been emphasized time and again by

Courts but has not yielded desired result. Power to arrest greatly contributes to its arrogance so also the failure of the Magistracy to check it. Not only this, the power of arrest is one of the lucrative sources of police corruption. The attitude to arrest first and then proceed with the rest is despicable. It has become a handy tool to the police officers who lack sensitivity or act with oblique motive.”

This court has inclined to grant interim relief granted earlier on 9th August, 2016 application deserves to be allowed on the same terms and conditions. Hence, the following order.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the applicant be enlarged on bail on furnishing PR Bond in the sum of Rs. 25,000/- with one or more local solvent sureties in the like amount.
- (iii) The applicant shall co-operate with the investigating agency and report to the police station as and when called after issuing notice under Section 160 of Cr.P.C.

(SMT. SADHANA S. JADHAV, J.)