IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1605 OF 2016

Mayank Prakash Shah …. **Applicant**

V/s.

The State of Maharashtra … **Respondent**

Smt Rekha Safari for the Applicant.
Smt. J.S. Lohokare, APP for the Respondent – State.
Mr. Ashok M. Bhatia for the Intervener.

CORAM : A.S.GADKARI, J.
DATE : 13th DECEMBER 2017

P.C.:

. By an Order dated 26.09.2016, the applicant was granted interim relief.

2. By a subsequent Order dated 03.03.2017 for the reasons recorded therein, the applicant was directed to attend the Investigating Officer and to cooperate in the process of investigation.

3. Heard the learned Counsel for the applicant, the learned Counsel for the intervener/first informant and the learned APP. Perused the record

annexed to the application and the record of investigation.

4. The first information report is lodged by Smt. Shruti Shah. The applicant is husband of Smt. Shruti Shah. It is stated that, her marriage with the applicant was solemnized on 11.03.2012. At that time of marriage, the applicant had represented to her and her family members that, he was doing business in the share marketing and earning Rs.40,000/- p.m. That, after the marriage, it was revealed that, the monthly income of applicant is much less than Rs.40,000/- p.m. and within a period of two months from the date of marriage, he sold the residential premises for the purpose of his business and did not purchase other home thereafter. The first informant, therefore, realized that the applicant has committed an act of cheating at the time of performing the marriage and even thereafter also. It is further stated that, the applicant was behaving in whimsical manner and used to harass and beat her. That, on the day of Diwali in the year 2014, on some trifle ground, the applicant pressed the throat of first informant and driven her out of the matrimonial house. It is alleged that, the applicant has retained stridhan given to the first informant by her father amounting to Rs.5,80,000/- more particularly mentioned in the first information report. In the premise, the first information report is lodged.

5. The learned Counsel for the applicant submitted that, while leaving the house on 20.09.2014, the first informant had executed a receipt under her own signature thereby admitting that, she is leaving the said premises with all her belongings, including cloths, articles, gifts and Stridhan including her jewelery and ornaments and thereafter would reside with her parents at Borivali. She submitted that, the applicant had received a report from a private handwriting expert stating that, the signature on the said receipt dated 23.09.2014 is of the first informant Smt. Shruti Shah herself. She submitted that, therefore, there is every reason to believe that, there are no ornaments or jewellary in the custody of the applicant and the allegation made by the informant about retention of the said stridhan is a false allegation. She further submitted that, the flat mentioned in the first information report belonged to the father of the applicant and the applicant had no ownership over the same, and therefore, the applicant has no concern with the sale of the said property. She further submitted that, the applicant prior to lodgment of the present crime had approached the Borivali Police Station, wherein she did not mention anything about the Stridhan or any other articles retained by the applicant. She, therefore, submitted that, the custodial interrogation of the applicant is not necessary

and the applicant may be protected by pre-arrest bail.

6. It is the specific allegation against the applicant that, after assaulting the first informant on a particular day, he drove her away from the matrimonial house and has kept the stridhan/ornaments of the first informant in his custody, which are more particularly mentioned in the first information report. As far as the receipt dated 23.09.2014 alleged to have been executed by the first informant is concerned, it will be to preposterous at this stage to take note of it as there is every possibility that the applicant might have got the same executed from the first informant after beating her and by putting her under threat of serious consequences and thereafter have procured a favourable report from a private handwriting expert. Even if, it is presumed that the informant has signed the same, a plain reading of the receipt would make it apparently clear that the same was written under pressure exerted by the applicant himself and therefore the said document at this stage has to be kept aside from consideration.

7. As noted earlier, by an Order dated 03.03.2017 for the reasons noted therein, the applicant was directed to attend the Investigating Officer and to cooperate in the process of investigation. The record of investigation indicates that, the applicant did not cooperate in the process of

investigation and did not produce the said ornaments mentioned in the first informant report. The ornaments mentioned in the first information report are yet to be recovered at the instance of the applicant and the same is not possible without there being custodial interrogation of the applicant.

8. In view of the above and after taking into consideration the serious allegations against the applicant and the gravity of the offence, this Court is of the view that the applicant does not deserve to be protected by pre-arrest bail.

9. Application is accordingly rejected.

10. At this stage, the learned Counsel for the applicant submitted that the interim relief granted by an Order dated 26.09.2016 may be continued for a period of 4 weeks from today with a view to enable her to approach the Hon'ble Apex Curt. For the reasons stated in the order, the said prayer is rejected.

(A.S.GADKARI, J.)