

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1755 OF 2016

Omkar Chandrakant Dhuri

.... Applicant

Versus

State of Maharashtra
through Dahisar Police Station, Mumbai.

.... Respondent

Mr. R.D.Suryawanshi for Applicant.
Ms. P P Shinde, APP for Respondent/State.

CORAM : SMT. SADHANA S. JADHAV, J.
DATE : 16TH JANUARY, 2017.

P.C.

The applicant herein is apprehending his arrest in Crime No. 269 of 2016 registered at Dahisar Police Station on 4th April, 2016 and he is being prosecuted for the offence punishable under Sections 498-A, 406, 323, 504, 506 of Indian Penal Code. It appears that the initiation of the criminal proceedings in Crime No. 269 of 2016 is an outcome of a matrimonial dispute.

2. The learned counsel for applicant, upon instructions, submits that the complainant has filed a petition seeking divorce, which is pending before the Family Court at Bandra. One of the allegation against the applicant is that he had taken Rs. 3,00,000/-

to purchase the house from the informant before marriage. The marriage was solemnized on 24th June, 2014 and the First Information Report is lodged on 4th April, 2016. It appears that discordant note had struck between the couple which had resulted in initiation of the criminal proceedings.

3. In view of the guidelines of the Hon'ble Apex Court, in the case of **Arnesh Kumar Vs State of Bihar AIR SC 2756** observed as follows :-

“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.”

The interim relief granted vide order dated 10th October, 2016 deserves to be confirmed. The observations are restricted to an

application under section 438 of the Code of Criminal Procedure and shall not be taken into consideration for the purpose of quashing of FIR, discharge application or at the time of trial.

4. Application is allowed on the same terms and conditions.

(SMT. SADHANA S. JADHAV, J.)