

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

ANTICIPATORY BAIL APPLICATION NO. 2117 OF 2016

Ashish Laji Mishra & Ors.	.. Applicants
Versus	
The State of Maharashtra	.. Respondent

Mr. A.H.H. Ponda i/b Mr. Apoorv Singh for the Applicants.
Mr. Deepak Thakare, A.P.P. for the State.

**CORAM :- SMT. SADHANA S. JADHAV, J.
DATED :- 9th JANUARY 2017.**

PC. :-

1 Heard. This is an application under section 438 of Cr.PC. The applicants herein are apprehending their arrest in Crime No.908 of 2016 registered at Dindoshi Police Station for the offences punishable under Sections 498A, 406, 323, 504, r/w.34 of I.P.C.

2 It is the case of the prosecution that on 28.11.2016, Ruchita Mishra lodged a report at the police station alleging therein that she happens to be an editor of on-line website magazine. That she got married to applicant No.1 on 29.04.2013. The applicant No.2 happens to be the mother of applicant No.1 and applicant No.3 happens to be the married sister of applicant No.1.

3 It appears that at the end of the year 2015, discord note had been struck between the couple. The complainant had withdrawn herself from the house of the applicant No.1 on 05.01.2016. In fact

on 05.12.2016 the applicant No.1 had addressed to the senior Inspector of Police, Dindoshi Police Station, that he has filed a Petition seeking dissolution of marriage which is registered as Petition No.A1918 of 2016 and is pending before the Family Court at Mumbai. Applicant No.1 had also informed to the police that by email communication dated 12.07.2016, he had asked his father in-law as well as complainant to take away the belongings which she had left in her matrimonial house. It appears that soon after the informant had received the notice for dissolution of marriage she had initiated criminal application against the applicant. Taking into consideration the material collected by the investigating agency in the course of investigation, it cannot be said that the custodial interrogation of the applicants would be imperative. Moreover, applicant No.3 happens to be the married sister of applicant No.1, who is not a member of the joint family of the complainant and applicant Nos.1 and 2. In view of the guidelines issued by the Hon'ble Apex Court in the case of *Arnesh Kumar vs. State of Bihar* (2014) 8 SCC 273.

“There is phenomenal increase in matrimonial disputes in recent years. The institution of marriage is greatly revered in this country. Section 498-A of the I.P.C. was introduced with avowed object to combat the menace of harassment to a woman at the hands of her husband and his relatives. The fact that Section 498-A is a cognizable and non-bailable offence has lent it a dubious place of pride amongst the provisions that are used as weapons rather than shield by disgruntled wives. The simplest way to harass is to get the

husband and his relatives arrested under this provision. In a quite number of cases, bed-ridden grand-fathers and grand-mothers of the husbands, their sisters living abroad for decades are arrested. Arrest brings humiliation, curtails freedom and cast scars forever. The existence of the power to arrest is one thing, the justification for the exercise of it is quite another. No arrest can be made in a routine manner of a mere allegation of commission of an offence made against a person.”

4 This Court is of the opinion that the applicants deserve pre-arrest bail. The observations are restricted to an application under section 438 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest, the applicants be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- each with one or more local sureties in the like amount.
- (iii) The applicants shall report to the police station as and when called after issuing notice under Section 160 of the Cr.P.C. and co-operate with the investigating agency.
- (iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)