

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

ANTICIPATORY BAIL APPLICATION NO. 418 OF 2017

Mayur Chandrakant Samjiskar & Ors. ... **Applicants**

V/s.

The State of Maharashtra & Anr. ... **Respondents**

Ms. Karishma Kalathil h/f Niranjan Mundargi for the Applicant.

Mrs. Rutuja Ambekar APP for the Respondent/State.

Mr. Manohar Mandavkar for Respondent No.2.

CORAM : A.S.GADKARI, J.

DATE : 21th FEBRUARY, 2018

P.C.:

. By an Order dated 08.03.2017, the Applicants were granted interim relief and were directed to report to the concerned Police Station on stipulated dates with a view to join the process of investigation.

2 Heard the learned Counsel for the Applicants, the learned Counsel for the Respondent No.2 and the learned APP. Perused the record of investigation.

3 The first information report is lodged by Smt. Nayan Samjiskar against her husband i.e. Applicant No.1 and all other in-laws.

A bare perusal of the first information report would indicate that it is the allegation against the Applicant No.1 that he used to harass and torture the first informant for non fulfilling the demand of money for purchase of a separate

house. It is also the allegation that stridhan of the first informant, more particularly mentioned in the first information report, has been retained by the Applicant No.1.

4 The record of investigation indicates that though the Applicant No.1 was directed to attend the Investigating Officer/concerned Police Station to join the process of investigation, the recovery of the said ornaments or stridhan could not be effected by the Investigating Officer till today. The allegations against the Applicant Nos. 2 to 8 are general in nature and in view of the ratio laid down by the Supreme Court in the case of *Arnesh Kumar v/s. State of Bihar, reported in (2014) 8 SCC 273*, the Applicants are entitled to be protected by pre-arrest bail.

5 As noted hereinabove, the allegations of mental and physical torture for non fulfillment of demand of money for purchasing of separate house and retention of stridhan are made against the Applicant No.1 Mayur Samjiskar i.e. husband of the first informant. The said stridhan is yet to be recovered by the investigation agency and the same is not possible without there been custodial interrogation of the Applicant No.1.

6 After taking into consideration the serious allegations against the Applicant No.1 and the gravity of the offence, this Court is of the view that Applicant No.1 does not deserve to be protected by the pre-arrest bail. However, Applicant Nos. 2 to 8 are entitled to be protected by the pre-arrest bail.

Hence, the following order:

- i) The pre-arrest bail of Applicant No.1 Mayur Samjiskar is rejected.
- ii) As far as, Applicant Nos. 2 to 8 are concerned, the interim relief granted by Order dated 08.03.2017 is hereby confirmed. However, the condition to attend the Investigating Officer is waived.
- iii) Application is partly allowed in the aforesaid terms.

(A.S.GADKARI, J.)