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

**ANTICIPATORY BAIL APPLICATION NO. 917 OF 2017
WITH
APPP NO. 631 OF 2017**

Mahesh Satish Malhotra

... Applicant

V/s.

The State of Maharashtra .

... Respondent

Mr. P.R. Yadav, a/w Sarita Vishwakarma i/b Priyanka Dubey for Applicant.
Mr. S.S. Hulke,, APP for State.
Mr. Pravin Padave, for Intervener.

CORAM : A.S.GADKARI, J.

DATE : 16th JANUARY 2018.

P.C.:

1] The applicant is apprehending arrest in CR No. 320 of 2016 dated 15.7.2016 registered with Oshiwara Police Station, Mumbai under Sections 498A, 323, 504, 506 r/w 34 of the Indian Penal Code.

2] Heard the learned Counsel for the applicant, the learned Counsel for the Intervener and the learned APP. Perused the record of investigation.

3] The first information report is lodged by Smt Meera Mahesh Malhotra, wife of the applicant. It is stated in the said report that, she got married with the applicant in year 2001. That after the said marriage, she came to know that the applicant has already married to other woman. However, she could not get more information either from the applicant or from his family member. That in the year 2003 she gave birth to baby-girl. It is alleged that, as the first informant was less educated, the applicant and his family members used to taunt her and used to pass sarcastic comments against her. That it is due to said taunts and harassment she fell sick, however, the applicant did not provide medical aid to her. The applicant also used to beat the first informant. It is further stated that during period from 8.2.2016 to 26.2.2016 the first informant was admitted to the hospital and had to undergo major surgery near her left eye. At that time the applicant did not pay any charges of the hospital. She has further stated that, when she returned to her matrimonial house, the applicant did not accept her and drove away.

4] The learned Counsel for the applicant submitted that, the first informant herself left the matrimonial house as she does not want to co-habit with the applicant. That by letter dated 9.11.2011 the first informant

admitted her guilt and started cohabiting with applicant. That thereafter she resided with applicant for a period of about 4 years and now she has left her matrimonial house. He submitted that for offence as contemplated under Section 498(A) of the Indian Penal Code, the custodial interrogation of the applicant is not necessary and he may be granted pre-arrest bail.

5] A bare perusal of the first information report would reveal that the applicant has meted the first informant not only with cruelty but also gave her inhuman treatment. That the applicant even did not bother to pay basic charges of the hospital when the first informant was admitted in hospital. The Stridhan of the first informant is with the applicant. That the applicant has driven away the first informant from her matrimonial house and forced her to reside with her parents. The Trial Court in its impugned Order dated 12.5.2017 has observed that, there are serious allegations of physical and mental ill-treatment and harassment at the hands of the applicant and the allegation in the complaint warrants custodial interrogation of the applicant who is the husband of the first informant and the main allegation revolves around him. I find that, the observations made by the Trial Court are proper and correct.

6] After taking into consideration the record of investigation and the observations made by the Trial Court in its impugned Order, this Court is of the view that the applicant does not deserve to be protected by pre-arrest bail and the application is accordingly rejected.

7] In view of Order passed in A.B.A. No.917 of 2017, Criminal Application No.631 of 2017 for intervention does not survive and the same is accordingly disposed off.

(A.S.GADKARI, J.)