

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1015 OF 2018

Mohammed Karam Raju Shah ...Applicant

V/s.

The State of Maharashtra and anr. ...Respondents

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Mr. Satyaram R. Gaud, Advocate for the applicant.

Mr. Omkar Nagvekar I/by. Ms. Trupti M. Khamkar,
appointed from Legal Aid Committee, for respondent
no.2.

Mr. H.J. Dedhia, APP for the State-respondent no.1.

API. Mr. Dangarne, Nehru Nagar Police Station present.

Coram : Sandeep K. Shinde, J.

Thursday, 20th December, 2018.

P.C. :

1. The applicant is apprehending arrest in C.R.

No. 150 of 2018 registered at Nehru Nagar Police Station

for the offences punishable under Section 498A, 504 read with Section 34 of the Indian Penal Code.

2. Heard learned Counsel for the applicant. Perused the written submissions submitted by the Advocate on the legal panel. Perused the order dated 22nd May, 2018. Since the parties were likely to settle the dispute on 22nd May, 2018 interim order was passed in favour of the applicant.

3. Today, it is submitted across the bar that, the dispute could not be settled and thus the matter is taken up for hearing on merits.

4. Perused the complaint. Out of five accused, four were granted anticipatory bail. The other accused are the brother-in-law, father-in-law and sister-in-law of the complainant. The marriage was solemnised on 15th May, 2011. It is submitted that the husband has filed application for restitution of conjugal rights in April, 2017 and the complaint has been filed in April, 2018 and hence after thought. It is submitted that the complainant-wife who is the respondent before the

Family Court has not appeared, and the proceedings were directed to proceed ex-parte. It is submitted that the allegations in the complaint are general in nature and there is nothing in the complaint to indicate that there was unlawful demand made by the accused and for not fulfilling it, she was subjected to harassment.

5. That as against this, it is submitted by the complainant that, she has appeared before the Family Court and has also filed proceedings under the Domestic Violence Act. It is submitted that though interim order of maintenance has been passed by the learned Magistrate in the domestic violence proceedings, the same has not been paid. It is submitted that, as on today, Rs.40,000/- is due and payable being arrears of maintenance. The learned Counsel appearing for the applicant submits on instructions that, the applicant shall pay Rs.40,000/- within two months from today in two equal installments and it may be accepted as Undertaking by the applicant. The Undertaking is accepted.

6. The complainant is present in Court. She is directed to supply her Bank Account details to the Advocate for the applicant so as to enable him to transfer the amount of arrears directly in her Account in two equal installments of Rs.20,000/- each.

7. It is made clear that, order directing payment of arrears is passed on concession and thus Appeal filed by the applicant, against the order passed in the proceedings under The Domestic Violence Act, shall be decided independently. Thus, considering the facts of the case and the proceedings pending before the various Courts and also looking into the allegations made in the complaint, I am inclined to allow the application. Hence, the following order :

(i) In the event of arrest of the applicant in C.R. No. 150 of 2018 registered at Nehru Nagar Police Station for the offences punishable under Section 498A, 504 read with Section 34 of the Indian Penal Code, the applicant be

released on P.R. Bond of Rs.25,000/- with one or more sureties in the like amount;

(ii) The applicant shall co-operate in the investigation and shall not tamper with the prosecution witnesses.

(iii) Liberty is granted to the complainant to move this Court, if the amount of maintenance is not paid.

(iv) With this, the Application stands disposed of.

(SANDEEP K. SHINDE, J)