

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

**ANTIICIPATORY BAIL APPLICATION NO. 1970 OF 2017
WITH
CRIMINAL APPLICATION NO. 1151 OF 2017**

Vikas Ramdas Dhondge. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Ms. Avanti Inamdar h/f. Mr. Rameshwar Gite, advocate for Applicant.

Ms. S.S. Kaushik, APP for State.

Mr. S.G. More, PSI, Jaykheda Police Station, Nashik Rural.

**CORAM : SMT.SADHANA S. JADHAV,J
DATE : FEBRUARY 22, 2018**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. None present for the intervenor.

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 174 of 2017 registered at Jaykheda Police Station, Nashik

on 14/10/2017 for offence punishable under section 306, 498A, 323, 504 of the Indian Penal Code.

3 It is the case of the prosecution that brother of the applicant was married to Archana on 18/2/2011. That on 13/10/2017 Archana had committed suicide alongwith her son Nakul by jumping into the well. On 14/10/2017 Bhausahab Botale i.e. the father of Archana lodged a report at the police station alleging that Archana was harassed by her husband and other members of matrimonial house for fetching an amount of Rs. 50,000/- to dig pond in their agricultural land. She was meted with cruelty and ill-treatment. She was being coerced to fetch funds from her parents. Due to paucity of funds, parents could not offer to pay the same and hence, she was subjected to harassment. On 13/10/2017 she had left the house alongwith her son Nakul and thereafter, their dead bodies were found in canal.

4 As far as the applicant is concerned, he is elder brother of Manoj
i.e. husband of Archana. The learned Counsel for the applicant upon
instructions submits that the applicant is an Optician and he resides in
Nampur. That he visited the house of Manoj only on certain
occasions and therefore, there was no occasion for him to cause
harassment and ill-treatment to deceased Archana.

5 The applicant herein was granted interim protection by an order
dated 14/11/2017. The applicant has cooperated with the
investigating agency and has not committed breach of conditions.

6 Reliance can be placed on the Judgment of the Hon'ble Apex
Court in the case of **Arnesh Kumar v/s. State of Bihar reported in
(2014) 8 SCC 273**. The Hon'ble Apex Court has observed thus :

“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 IPC 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.”

In view of the above, interim relief granted vide order dated 14/11/2017 deserves to be confirmed on some terms and conditions.

7 However, it is made clear that observation are restricted to an application under section 438 of the Code of Criminal Procedure, 1973 and the same shall not be taken into consideration for quashing of FIR, discharge application or at the time of trial.

8 Hence, following order is passed:

ORDER

(i) The application is allowed.

(ii) In the event of arrest in Crime No. 174 of 2017 registered at Jaykheda Police Station, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs. 25,000/- with one or more solvent sureties in the like amount.

(iii) The applicant shall report to the police station as and when called and cooperate with investigating agency.

9 The application is disposed of accordingly.

10 In view of disposal of ABA 1970/2017, Criminal Application seeking intervention is disposed of.

(SMT. SADHANA S. JADHAV,J)