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

ANTICIPATORY BAIL APPLICATION NO.2011 OF 2017

Anshul s/o Ajay Morarka

... Applicant

V/s.

The State of Maharashtra

... Respondent

WITH

ANTICIPATORY BAIL APPLICATION NO.2026 OF 2017

Uttam Kailashchand Tibrewal

... Applicant

V/s.

The State of Maharashtra

... Respondent

Mr. A.M. Saraogi for Applicants.

Mr. J.S. Lohokare, APP for State.

Mr. Sunil Yadav for Intervener.

CORAM : A.S.GADKARI, J.

DATE : 4th June 2018.

P.C.:

1] By an Order dated 21st November 2017, the applicants were granted interim relief.

2] Heard the learned Counsel for the applicants, the learned Counsel for the Intervener and the learned APP. Perused the record.

3] The prosecution case in brief is that, the applicant-Uttam Tibrewal was employee of the firm of the first informant who is in the business of Finance and Stock Broking. It is due to the applicant Uttam, the company of the first informant suffered loss of rupees one crore fifty lakhs. On 6.4.2017 both applicants had been to the house of the first informant and assured her that they will make good the said loss. During the course of their discussion, the applicants abused husband of the first informant and also outraged the modesty of the first informant. A Non-Cognizable Offence bearing No.819 of 2017 has been registered on 8.4.2017 in that behalf. A separate Non-Cognizable Offence bearing No.969 of 2017 has also been registered by the first informant against the applicants. It is further alleged that, on 21.5.2017 the applicant Uttam threatened the first informant for taking back earlier two complaints lodged by her with the police and therefore a separate Non-Cognizable Offence bearing No.1120 of 2017 has also been registered against the applicants. The first information report is lodged on the basis of incident occurred on 6.4.2017 for which a Non-Cognizable Offence bearing No.819 of 1979 has already been registered by the Police. The concluding paragraph of the first information report mentions the incident of 6.4.2017 wherein it is alleged that the applicants

have outraged modesty of the first informant.

4] A bare perusal of the first information report would clearly indicate that the alleged act of the applicant-Uttam thereby outraging modesty of the first informant had occurred during the course of a minor tiff which ensued due to heated arguments between the parties when they met at the residence of the first informant for arriving at a settlement. It further appears that, the alleged act as contemplated under Section 354 of I.P.C. by applicant-Uttam was not an intentional act by him, but it happened during the course of a minor tiff. The applicant -Anshul A.Morark is the son-in-law of applicant-Uttam and was present at the time of said discussion on 6.4.2017 and therefore he has been impleaded in the present crime.

5] It is to be noted here that, for the alleged incident dated 6.4.2017 the present offence is registered. On the same date on the basis of complaint made by the first informant, the police had registered a Non-Cognizable offence bearing No.819 of 2017 as the police did not find substance in the complaint of the first informant to take cognisance of the same and now on the basis of the same allegations a cognizable offence has been registered by the police.

6] After taking into consideration the peculiar facts of the present case, this Court is of the view that, the applicants deserve to be protected by pre-arrest bail.

In view thereof, interim relief granted by Order dated 21st November 2017, is hereby confirmed. However, the condition to attend the Investigating Officer/concerned Police Station is waived.

7] Applications are allowed in the aforesaid terms.

(A.S.GADKARI, J.)