

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 411 OF 2018**

Dilshad Ahmed Majid Shaikh

....Applicant.

Vs.

The State of Maharashtra

....Respondent.

Mr. Sunilkumar Kanoujia for the Applicant.

Mr. S.S. Hulke APP, for the Respondent-State.

Ms. Megha Bajoria, Legal Aid for the Respondent No.2.

CORAM : A. S. GADKARI, J.

DATE : 27th MARCH, 2019.

P.C.:-

This is an Application under Section 438 of the Code of Criminal Procedure for pre-arrest bail in C.R. No. 661 of 2017 registered with Sakinaka Police Station, Mumbai under Sections 498(A), 354, 354(A), 323, 504, 506, 509, 420 read with Section 34 of the Indian Penal Code.

2 Heard the learned counsel for the Applicant, the learned amicus curiae and the learned APP. Perused the record.

3 The first information report is lodged by the Respondent No.2 i.e. the wife of the Applicant.

It is the prosecution case that, the marriage of the

Applicant with Respondent No.2 was solemnized on 17th August, 2016 as per the Islamic rites. After the Respondent No. 2 started co-habiting with the Applicant in Mumbai, she came to know that it is the third marriage of the Applicant. The Applicant was earlier married with two other women and he had given divorce to the first wife. She also came to know that, the second wife has left the house.

It is the further prosecution case that, as the brother of the Applicant tried to outrage modesty of the informant/Respondent No.2 and when the informant told the said fact to the Applicant, he supported his brother and directed the informant to have relations with him. When the informant refused to comply with the said directions, it is alleged that the Applicant abused her and assaulted her.

4 The informant has categorically stated that, on earlier occasions, she lodged Complaints with the local police and the police had admonished the Applicant and his brother to behave properly with the informant. It is categorically stated that, when the informant became pregnant, the Applicant told her that the foetus is not of him and drove her away from the house on 17th October, 2017. The informant has stated that, apart from her brother-in-law her father-in-

law also expected to have relations with her and on certain occasions outraged her modesty. It is further stated that, the Applicant did not prevent his brother and father from committing the said act.

5 The allegations against the Applicant are undoubtedly serious in nature. It appears that, when the first informant did not accept the said unlawful request and/or directions of the Applicant, the Applicant by giving Talaq to her, has driven her away from his house. The investigation of the present crime is at nascent stage and unless and until the Applicant is thoroughly interrogated by the police, the entire truth behind the crime will not be revealed.

6 In view of the above and after taking into consideration the gravity of the offence and the serious allegations against the Applicant, this Court is of the opinion that, the Applicant does not deserve to be protected by pre-arrest bail.

Application is accordingly rejected.

7 At this stage, the learned counsel for the Applicant submitted that, he intends to challenge this Order before the Hon'ble Supreme Court and therefore, the operation of this Order may be stayed.

After taking into consideration the nature and serious allegations against the Applicant, the said request is rejected.

(A.S. GADKARI, J.)