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IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

CRIMINAL APPLICATION NO.384 OF 2015

Shenphadu Suryabhan Vitekar

APPLICANT

VERSUS

The State of Maharashtra

RESPONDENT

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Mr. N. S. Ghanekar h/f Mr. R. V. Gore, Advocate for the applicant
Mr. S. M. Jadhav, APP for respondent State

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[CORAM : M. T. JOSHI, J.]

DATE : 25th FEBRUARY, 2015

ORDER :

1. Heard both the sides.
2. Present applicant, who is arrested by Phulambri police station, district – Aurangabad in Crime No. 153 of 2014, for the offence punishable under section 306 of the Indian Penal Code, is praying for his release on bail.
3. The applicant was arrested on 9th November, 2014. This Court had directed learned APP to seek instructions from the Registrar of the concerned court as to within how much time, the trial will be concluded. Learned APP, on the basis of written instructions received by him, submits that the trial would be

completed within a period of four to five months.

4. Earlier application of the present applicant bearing Criminal Application No. 6321 of 2014 was allowed to be withdrawn by me, vide order dated 3rd December, 2014 with liberty to file similar application in the Sessions Court, after charge-sheet is filed.

5. In nutshell, allegations are that present applicant had once abused daughter-in-law of the deceased, regarding which a complaint was filed with the police. Thereafter, again on 13th October, 2014, he entered house of the deceased, where daughter-in-law was residing therein. He made sexual advances against her, regarding which complaint was filed and the crime was registered. In the circumstances, on 8th November, 2014, the deceased i.e. father in law of the said woman has committed suicide. Therefore, offence punishable under section 306 of the Indian Penal Code is registered against present applicant.

6. Mr. Ghanekar, learned advocate holding for Mr. Gore submits that statement of daughter-in-law recorded in the present case as against FIR in the previous case would show that there is vast difference of time period of the earlier incident and regarding presence of witnesses. He further submits that merely

earlier two alleged incidents had occurred, offence punishable under section 306 of the Indian Penal Code cannot be made out. He relies on the ratio of "***Kailash V. State of M. P. reported in 2013 ALL MR (Cri) 3303 (SC)*** and "***Girish Sanjay Bole V. The State of Maharashtra***" reported in 2012 ALL MR (Cri) **3863**. In the circumstances, he submits that since present applicant is behind bars for a long, he may be released on bail.

7. Learned APP opposed the plea. He submits that earlier on two occasions, present applicant had assaulted daughter in law of the deceased and had made sexual advances against her. Since present applicant was adamant in continuing with these incidents, the father-in-law of the woman has committed suicide. He further submits that the trial is going to be completed within a short period and the ratio of the cases cited would not be applicable. In the circumstances, he submits that the application be dismissed.

8. Perused the ratio of the cases cited, It would be in the facts and circumstances of those cases, that due to rape the prosecutorix has committed suicide and due to one sided love affair, the girl has committed suicide, it was held that offence punishable under section 306 of the Indian Penal Code is not

made out.

9. In the present case, facts would show that there was continuous physical advances by the present applicant against the daughter-in-law of the deceased, which according to the prosecution has ultimately lead to the head of the family i.e. father in law to commit suicide. At this stage, it is not required to come to the conclusion as to whether those allegations would constitute offence punishable under section 306 of the Indian Penal Code. Taking into consideration overall facts and that the trial is going to be completed within a short period, in my view, the applicant cannot be released on bail.

10. The application accordingly stands dismissed.

[M. T. JOSHI, J.]