

**IN THE HIGH COURT AT BOMBAY
APPELLATE SIDE, BENCH AT AURANGABAD**

CRIMINAL APPLICATION NO. 6354 OF 2014

Dr. Nilesh s/o. Vishwas Shelke
and Another

....Applicants.

Versus

The State of Maharashtra & Anr.

....Respondents.

Mr. Rajendra S. Deshmukh, Advocate for applicants.

Mr. M.M. Nerlikar, APP for State.

Mr. N.L. Choudhari, Advocate for original complainant.

CORAM : T.V. NALAWADE, J.

DATED : 14th January, 2015.

ORDER :

1. The application is filed for relief of anticipatory bail. Both the sides are heard. This Court has perused the papers of investigation and also many documents produced by the applicants.

2. The crime is registered on the basis of report given by Shri. Arun Patil. Deceased Sujata was his daughter and she was given in marriage to applicant No. 1 on 14.4.2000. Applicant No. 1 and deceased both were practicing as doctors in the same hospital.

3. Allegations are made that after six months of the marriage, applicant No. 1 started giving illtreatment on petty counts to the deceased. Allegations are made that applicant No. 1 was even giving beating to the deceased. Allegations are made that he was giving abuses in filthy language to the deceased. The deceased was tolerating the illtreatment somehow. In the year 2002, she became pregnant first time and she delivered a female child. Allegations are made that after the birth of daughter, applicant No. 1 started taking suspicion about the character of the deceased and on that count, he started giving illtreatment to the deceased.

4. Allegations are made that when on the second occasion, deceased Sujata delivered female child, the applicant No. 1 started giving more illtreatment by saying that she had given only daughters to him. The deceased used to disclose about the illtreatment to the complainant. In the year 2009, due to this conduct of applicant No. 1, a meeting was held and the relatives of the deceased on parents side had tried to convince applicant No. 1 to behave well with the deceased. Allegations are made that even after meeting of 2009, illtreatment was continued to the deceased by applicant No. 1 and he continued to take suspicion about the character of the deceased.

Allegations are made that applicant No. 1 then developed illicit relationship with one nurse working in the hospital. It is contended that deceased realized about this relationship and when questioned, she was severely beaten by applicant No. 1. This incident was also disclosed by the deceased to her parents. Allegations are made that for about six months prior to the date of incident, severe illtreatment was given to the deceased and even the demand of Rs. 15 lakh was made for repayment of loan which the applicant No. 1 had taken.

5. Allegations are made that applicant No. 1 then filed divorce proceeding in the Court of Civil Judge, Senior Division, Ahmednagar. The date was given for appearance as 16.10.2014. The deceased informed on phone to the complainant that present applicant had given threat of life to her and his friend Abdul Aziz was in his company. She was frightened due to this phone call. Applicant was asking her to vacate the premises. The complainant and his wife went to the building where the deceased was living with her daughters and on 19.10.2014 it was informed that on that day, present applicant No. 1 had given severe beating to the deceased and threat of life was given and she said to the parents that she was frustrated due to this conduct of applicant No. 1. It appeared to the complainant that

deceased was not at all happy and she was frustrated due to the conduct of applicant No. 1. The parents tried to convince the deceased somehow, but they realized that she was very much disturbed due to conduct of applicant No.1. The deceased was in their company till 7.30 p.m. At about 8.00 p.m. the deceased said to her mother that she wanted to take Darshan of Godess and she left their company. As she did not return for about 10 to 15 minutes, they started searching for her. Then all of a sudden, they heard a noise of fall and they realized that the deceased had jumped from fourth floor to commit suicide. She died in the hospital before 10.45 pm. on that day. The report came to be given on the next day and the crime came to be registered for offences punishable under sections 306, 498-A, 323, 506, 34 etc. of I.P.C. and sections 3 and 4 of Dowry Prohibition Act.

6. This Court has gone through the record of investigation which include the statement of the lady, who is mentioned in the complaint and with whom applicant No. 1 had illicit relationship. The statement shows that she has not only admitted relationship, but she has given the account of conduct of applicant No. 1, as to how he enticed her. She has given particulars of their stay at various places and where they had lived together. There are statements of employee like Madhukar

Waghmare and one person Lungase, who used to visit the hospital to show that they had knowledge about the illicit relations of applicant No. 1 with the said nurse. In addition to that there is copy of complaint given by present applicant to police on 3.6.2014 in which he had complained that somebody was threatening him and trying to extract money from him. He had suspicion against his own staff who was removed from job. The record shows that from prior to March 2014, the illicit relations were kept by applicant No. 1 with the said nurse. There are statements of other staff members also to that effect.

7. The learned APP submitted that after registration of the crime, the complaints were received from the husband of the said lady and also from the complainant to the effect that applicant was threatening them. Thus, there are allegations that applicant No. 1 was tampering with the prosecution witnesses. There is statement of Riya, daughter of applicant, which is mainly on the last incident, which also shows that there used to be quarrels between the deceased and applicant No. 1.

8. The learned counsel for applicant No. 1 placed reliance mainly on some record like medical certificate. He submitted that the deceased was suffering from hypothyroidism

and this certificate was obtained on 31.10.2014. The crime was registered on 20.10.2014. The learned counsel for applicant is relying on some literature about women's health and he submitted that in one article, opinion is given that when a lady is suffering from aforesaid deceased, she may have suicidal thought. He submitted that the possibility that due to such suicidal thought she committed suicide, cannot be ruled out. This contention cannot be considered at this stage particularly in view of the positive material available against applicant No. 1 which is discussed above.

9. The learned counsel for the applicant placed reliance on contents of divorce proceeding filed under section 13 of Hindu Marriage Act against the deceased and he contended that in the said proceeding also, he had contended that the deceased was likely to commit suicide as she was saying so and she was harassing him. The learned counsel for applicant submitted that due to the conduct of the deceased, he had left the company of the deceased and he had started living with his parents. It is a fact that he has filed divorce proceeding. In the divorce proceeding, there is one contention that the deceased was taking suspicion about the character of applicant No. 1. This circumstance is consistent with the allegations made against

applicant No. 1 and statements given by some witnesses against him. In any case, the material on which applicant No. 1 wants to rely, cannot be considered for grant of such relief and at this stage.

10. The learned counsel for applicant No.1 submitted that applicant No. 1 was making huge income and he was paying Rs. 48 lakh as income tax per year and so the allegation about the demand of money against him cannot be believed. This matter can be investigated and there is allegation that for repayment of loan, applicant No. 1 was in need of money and for that, he was making demand. That is a matter of investigation.

11. The learned counsel for the applicant placed reliance on the case reported as **(2011) 1 Supreme Court Cases 694 [Siddharam Satlingappa Mhetre Vs. State of Maharashtra and Ors.]**. He took this Court through paragraph Nos. 111, 112, 113, 114 and 117 and 118. In section 438 of Cr.P.C. criteria are given and some circumstances are discussed by the Apex Court which are called as relevant for consideration of application filed for relief of anticipatory bail. There cannot be dispute over the proposition made. The facts and circumstances of each and every case are always different. Granting relief of anticipatory

bail is a serious matter and it interferes in the statutory powers of police to investigate. In view of the aforesaid nature of present case, this Court has no hesitation to observe that thorough interrogation of applicant No. 1 is necessary. The learned counsel for applicant No. 1 submitted that for about one and half month, there was interim relief in favour of applicant No. 1, he attended the concerned police station for the purpose of interrogation and so, police should not need the custodial interrogation. This submission is not at all acceptable. It is a matter of experience that when a person is protected by interim relief like the present one, the interrogation becomes farce and it is never effective interrogation. This Court holds that only because, he attended the concerned police station and he allegedly showed readiness to cooperate police during investigation, that cannot help him for getting the relief of anticipatory bail. The learned counsel for applicants submitted that applicant No. 1 was actually interrogated when he visited the police station. This Court has already observed that such interrogation has no meaning and it is never effective in nature. There are circumstances showing that applicant No. 1 is a rich person and he can influence anybody.

12. During arguments, the learned counsel for applicant

No. 1 submitted that the husband of the said nurse had come to applicant No. 1 and he had informed that he had gone to the police station to tell the police that the story about the illicit relations is not correct. This circumstance is indicative of the influence, which the applicant No.1 can yield. Already, the complainant has also filed affidavit in support of the applicant No. 1 in the present proceeding and he has submitted that he has no objection to grant relief of anticipatory bail to the applicants. However, there is peculiar thing about it and he has not contended that whatever he has alleged in report against the applicant No. 1 is not true or that was done out of misunderstanding. His affidavit shows that only in the interest of his two grand daughters, he wants that applicant No.1 should get the relief as there needs to be somebody for taking care of his grand daughters. This Court holds that the complainant himself can take care of his two grand daughters if there is no other person to take care of daughters of applicant No. 1. In any case, in view of the aforesaid material, this Court holds that applicant No. 2, father of applicant No. 1, can be given relief of anticipatory bail and so, he will be very much there to take care of daughters of applicant No. 1. In the result following order :-

13. Application of applicant No. 1 - Dr. Nilesh s/o.

Vishwas Shelke is rejected. Interim relief granted in his favour is vacated.

14. Application of applicant No. 2 - Vishwas s/o. Madhavrao Shelke is allowed. He is to be released on bail on his furnishing PR and SB of Rs. 15,000/- (Rupees fifteen thousand). He is not to tamper with the prosecution witnesses.

15. The learned counsel for applicant No. 1 requested for continuation of interim relief for some more time. In view of aforesaid material discussed, this Court holds that continuation of interim relief is not at all possible. Such relief is not granted.

[T.V. NALAWADE, J.]

ssc/