

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 85 OF 2015

Abhishek Vishwajit Nagaonkar. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Gaurav Parkar, advocate for Applicant.

Mr. Arfan Sait, APP for State.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 23, 2015

P.C.:

1 Heard the learned Counsel for the applicant and the Learned
APP for State. Perused the papers.

2 This is an application under Section 438 of the Code of Criminal
Procedure, 1973. The applicant is apprehending his arrest in Crime
No. 4 of 2015 registered at Alibag Police Station for offence
punishable under section 306 of the Indian Penal Code.

3 It is the case of the prosecution that on 8/1/2015 one Anil Gharu Gharat lodged a report at the police station alleging therein that on 26/12/2014 it appeared that his minor daughter aged about 16 years old was in depression. She was not talking to anybody. In the evening, his daughter was feeling dizzy. He had taken her to Sadbhakti Clinic at Wadagaon. While in transit, parents had repeatedly asked their daughter the cause of depression. However, she maintained silence. Dr. Tamboli examined her and asked her parents to take her to Civil Hospital, Alibag. At the Civil Hospital she was given intravenous injection. Thereafter she vomited. It had transpired that she had "Forret" a poisonous substance. On 28/12/2014 she was transferred to MGM Hospital at New Mumbai. There also she was not admitted and therefore, she was brought to Sion Hospital. There they saw that a doctor had visited her and he was continuously speaking with somebody on his cell phone. Upon enquiry, he disclosed that he was speaking to the present applicant. Thereafter, said Dr. Sandeep Desai had fled from the spot. The complainant had immediately disclosed the police about the same. Dr. Sandeep Desai had disclosed that the present applicant happens to

be his friend. The complainant suspected that the present applicant had deputed Dr. Sandeep Desai to the hospital. On the same day at about 8.15 p.m. minor daughter of the complainant had expired.

4 On 30/12/2014 when the complainant had returned from his native village Talwali, he met his neighbour Aditya Jagannath Gharat who informed to the complainant that on 26/12/2014 he had seen the present applicant talking to the minor daughter of the complainant. Upon enquiry she had disclosed that the present applicant had cheated her and that he was about to marry another girl. She cursed him and went to school.

5 The complainant had further disclosed that on 17/9/2014 his daughter had informed her mother that she is going to elope with the present applicant and that she is safe with him. The complainant and his family member were aware that the present applicant is in love with the deceased. Thereafter, his parents had asked the complainant to take her home. On 18/9/2014 the complainant had complained about the same to the police station only to deter and threaten the

present applicant from taking the intimacy any further. His daughter had informed him that on 17/9/2014 the applicant had forcibly taken her to Alibag. The complainant has stated that initially the present applicant had assured her of marriage and thereafter, he had refused to marry her. Hence, she has committed suicide.

6 Upon perusal of papers of investigation, it appears that on 20/9/2014 the police of Alibag Police Station had recorded statement of the present applicant. He had disclosed to the police that he was in love with the deceased. Both the families had disapproved of their marriage. He had also given an undertaking that he would never call upon her. That he would not even maintain friendly relations with her. That in the eventuality, he commits breach of the undertaking, he would be liable for any legal action. It prima facie appears that since both the families had disapproved of their relationship, the applicant had abstained from contacting her, which must have been misunderstood by her.

7 The learned APP submits that the date of birth of the deceased is 28/1/1998. That on the date of incident, the deceased had completed 16 years of age. However, she was child as contemplated under Protection of Children from Sexual Offences Act, 2012 and therefore, the prosecution has added the provisions of the Protection of Children from Sexual Offences Act, 2012 and hence, according to the learned APP, the applicant is not entitled to grant of pre-arrest bail.

8 Learned Counsel for the applicant submits that in the eventuality of his arrest and being sent to police custody, he would carry stigma for all his life and the family of the applicant would be exposed to social obloquy. No doubt, it is unfortunate that a young girl has committed suicide. However, it cannot be *prima facie* said that the applicant would be liable for the suicidal death of the daughter of the complainant. In view of this, the applicant deserves grant of pre-arrest bail.

9 The observations made hereinabove are prima facie in nature. The same shall not be considered for deciding an application for discharge or for quashing of FIR or at the time of trial.

10 Hence, following order is passed :

ORDER

(i) In the event of arrest in Crime No. 4/2015, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.15,000/- and one or two sureties in the like amount.

(ii) The applicant shall not tamper with the evidence.

(iii) The applicant shall report to Alibag police station from 30/1/2015 to 5/2/2015 everyday between 10 a.m. to 12 noon and cooperate with the investigating agency to the best of his capacity.

11 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)