

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.471 OF 2015

Yashwant Baban Ghadge	... Applicant
vs.	
The State of Maharashtra	... Respondent

Ms. Shakuntala Wadekar, for the Applicant.
Ms. Veera Shinde, APP for Respondent – State.

CORAM: MRS.MRIDULA BHATKAR, J.

DATE: JUNE 29, 2015

P.C.:

. The application is moved for pre arrest bail as the applicant is apprehending arrest for the offences punishable under Sections 306 read with 34 of the Indian Penal Code.

2. The incident of suicide has taken place on 25th February, 2015 and the brother of the deceased has gave first information report on 25th February, 2015 at Narayangaon police station, Pune. It is the case of the prosecution that one Vitthal Ghadge (deceased) who was having land in the village Kandali-Vadgaon, Tal. Junnar, Dist. Pune was harassed by the applicant/accused and he was mentally tortured so much that he ultimately committed suicide. He told his wife about the threats given by

the applicant/accused. On 24th February, 2015 also at around 4.30 p.m. the applicant/accused has abused the deceased and threatened him of life. Therefore he committed suicide by jumping in the Well. Hence, this pre arrest bail.

3. The learned counsel for the applicant/accused has submitted that it is not a case of instigation and abetment under Section 306 of the Indian Penal Code. She relied on the ratio cited in the judgment of this Court by the Division Bench in the case of *“Binod Ratan Sarkar vs. State of Maharashtra”*¹. She submitted that there is no abetment as contemplated under Section 107 and 306 of the Indian Penal Code and therefore the applicant/accused has to be granted pre arrest bail. She submitted that the deceased and the accused are resident of same village and there is no single NC registered against the applicant/accused by the deceased earlier. All the allegations made against the applicant/accused are false and he is to be granted pre arrest bail.

4. The learned prosecutor opposed the bail application. She has relied on the papers and statements of the witnesses and a suicide note. She pointed out that the applicant/accused was indulging in black magic. There was a terror of the applicant/accused in the vicinity. The suicide note

1. 2013(O) AIJ-MH 165546.

speaks about the continuous pressure tactics administered by the applicant/accused on the deceased.

5. Perused the para 14 of the judgment of the Division Bench in respect of Section 107 and 306 of the Indian Penal Code wherein it is held that the scope and meaning of “abetment” has to be considered to find out whether the charge and conviction for an offence under Section 306 of the Indian Penal Code can be sustained merely on the allegations of harassment of the deceased and whether the ingredients of abetment are attracted on the basis of the statement of the deceased. The degree or intensity of harassment depends on the nature of torture and the effect of the torture and harassment in a particular case. The case before the Division Bench was not at the stage of pre arrest bail.

6. Perused the first information report. So also the statements of witnesses Sharda Ghadge and Shital Ghadge, the wife and daughter of late Vitthal. It is mentioned that the family of the deceased was afraid of the applicant/accused as he was indulged into the black-magic and therefore under that pressure no complaint was given against him to the police. It appears that pressure and threats were continuous at the hands of the applicant/accused. A suicide note is also placed on record wherein the

deceased has mentioned about his poverty, his efforts to go away from the accused and the degree of torture. It appears that it is a kind of raging at the hands of the applicant/accused. In view of the above, it is not a case to grant pre arrest bail.

7. Hence, the application stands rejected.

8. The learned counsel for the applicant/accused prays for stay for four weeks. Stay granted. Interim relief to continue till then.

(MRS.MRIDULA BHATKAR, J.)