

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****CRIMINAL ANTICIPATORY BAIL APPLICATION NO.706 OF 2015**

Smt. Sujata Sujay Shetke & Anr.
versus

..Applicants.

The State of Maharashtra

..Respondent.

.....
Mr. Shekhar A. Ingawale for the Applicants.
Mr. Arfan Sait, Addl. P.P. for the State.
.....

CORAM : A.S. GADKARI, J.
(VACATION COURT)

21st May 2015.

P.C. :

This is an application under Section 438 of the Cr.P.C. thereby seeking anticipatory bail by the applicants. The applicant No.1 is the wife of the deceased Sujay and applicant No.2 is the mother of the applicant No.1. First Information report dated 03.05.2015 came to be registered by Sanjay Sambhajirao Shetke i.e. brother of the deceased. The deceased Saujay Shetke committed suicide by consuming poisonous liquid on 02.05.2015 and expired on 03.05.2015 in hospital. After the death of the said Sujay a suicide note was found in his notebook wherein it has been mentioned that the deceased was fed up of the harassment and mental torture meted to him by the applicants and Mr. Ajay Shrikant Korane and Vijay Shrikant Korane.

This matter was heard on earlier occasion i.e. on 18.05.2015. The Investigating Officer did not bring the suicide note for the perusal of this Court on 18.05.2015 and therefore, by an order dated 18.05.2015 this Court had directed Investigating Officer to

produce an entire set of investigating papers in this Court. In pursuance of the order dated 18.05.2015 Investigating Officer has produced a panchanama dated 03.05.2015 wherein the contents of the suicide note have been reproduced. As per the contents of the suicide note, it is specifically mentioned therein that the applicants herein were responsible for the harassment and mental torture to the deceased Sujay and therefore, there was no other alternative left for him than to end his life.

Learned Counsel appearing for the applicants submitted that the deceased Sujay was suffering from mental illness and as a matter of fact because of the same there was already a partition deed executed. He further submitted that there was no need for the deceased to implicate the applicants while committing suicide. He further submitted that the police have already seized the suicide note and there is no need for custodial interrogation for the applicants as the applicants have been done anything in the crime. He also contended that the record would reveal that there is no mens rea involved in the present crime. Lastly he contended that the other two persons namely Ajay Korane and Vijay Korane have already been granted anticipatory bail by the learned Sessions Court and in view of the same parity to the applicants is applicable.

I have perused the entire original record produced before me by the learned A.P.P. I have read contents of the suicide note. Learned A.P.P. submits that apart from the names of the applicants which have been reflected in the suicide note, there are two other witnesses to whom the deceased had earlier expressed his desire to end his life because of the harassment meted to him by the applicants. Learned A.P.P. further submits that the said two statements amounts to oral dying declaration. In my considered opinion, firstly the ground of parity is not applicable to the applicants herein with Ajay Korane and

Vijay Korane, as per the suicide note. The applicants were more instrumental in causing mental torture and harassment to the deceased. I am further of the opinion that the custodial interrogation of the applicants is very much necessary to unearth the fact as to what led the deceased to commit suicide.

In view of the above, I am inclined to grant anticipatory bail to the applicants and the Application is dismissed.

(A.S. Gadkari, J.)