

Vidya Amin

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1123 OF 2015

Dilip Dagadu Hande

... Applicant

Vs.

The State of Maharashtra

... Respondent

Mr. Uday B. Nighot, Advocate for the applicant.

Mr. S.S. Pednekar, APP for the State.

CORAM: **MRS.MRIDULA BHATKAR, J.**DATE : **AUGUST 5, 2015****P.C.:**

This Application is moved for pre-arrest bail, as the applicant/accused is apprehending arrest in C.R. No. 110 of 2015 registered with Alephata Police Station, Pune for the offences punishable under sections 363, 305, 506 r/w. 34 of the Indian Penal Code. The complaint was given by one Rohidas Murlidhar Sable, father of the deceased on 14th July, 2015 that his minor son has committed suicide.

2. It is the case of the prosecution that on 13th July, 2015 complainant's son Aniket and his friend Shahrukh were taken away in the car by the applicant/accused and co-accused and then they questioned them on the ground of eve teasing his daughter. Thereafter they assaulted deceased Aniket and tore off the clothes of deceased and Shahrukh. Thereafter, Shahrukh's mother arrived there and intervened. Aniket returned home and informed about this incident to his father. However, his father did not take it seriously and went away for his work.

On the next day, i.e., 14th July, 2015, Aniket was not found at home. So the complainant searched for him and then he found his body in the well. Since Aniket did not know swimming, he gave complaint against the applicant/accused and co-accused Sunil Kakde, Baban Kakde, Bhiku Kakde and Sadanand Kakde.

3. It is pointed out by the learned counsel for the applicant/accused that this Court by an order dated 31st July, 2015 has granted pre-arrest bail to co-accused Sunil Kakde and other accused after hearing learned APP and after going through the papers which were produced by the Investigating officer who was present at that time. The learned counsel submitted that the papers of investigation which were produced in that case is similar to the present case, hence he prays for pre-arrest bail on the ground of parity.

4. This is the first date of the Application. Generally, Anticipatory bail is not granted on the first date unless the prosecutor is present. In the present case, learned APP is present. Learned APP though opposed the Application, he confirms that while passing order on 31st July, 2015 granting bail to the co-accused, Investigating officer was present with all the documents and this Court has perused all the documents.

5. In paragraph 3 of the order dated 31st July, 2015, it is mentioned that the Investigating officer was present with all the documents including photographs, panchnama, postmortem report and the statements of the

witnesses. It was observed that entire investigation was nearly complete. Though there was assault, however, *prima facie* it does not establish a case under section 305, as the ingredients under section 107 of Indian Penal Code are not found. So, by applying the doctrine of parity, pre-arrest bail is granted to the applicant/accused on the following terms and conditions:

ORDER

- i) Application is allowed.
 - ii) In the event of arrest, the applicant/accused shall be released on bail upon furnishing P.R. Bond in the sum of Rs.20,000/-, with one or two sureties in the like amount;
 - iii) The applicant shall not tamper with the evidence;
 - iv) The applicant shall not indulge into any kind of criminal activity.
 - v) The applicant shall cooperate with the Investigating Officer and attend the concerned police station on every Monday between 4 p.m. to 6 p.m. till the filing of charge sheet.
6. Anticipatory Bail Application stands disposed of on above terms.

(MRS.MRIDULA BHATKAR, J.)