

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 1161 OF 2015

1. Sanjay Chindhu Thakre)
2. Mrs. Varsha Sanjay Thakre)
3. Mr. Tukaram Dunda Kedar)..Applicants
vs.
The State of Maharashtra ... Respondent

Mr. Anil S. Kamble, Advocate, for the applicants.

Mr. S.H. Yadav, APP, for the State.

Mr. A.A. Patil, API, Kalyan Taluka Police Station, Thane present.

CORAM: SMT.SADHANA S.JADHAV,J.

DATE : 10th August, 2015.

P.C.

Heard. This is an application under Section 438 of Cr.P.C.

The applicants herein are apprehending their arrest in Crime No.43 of 2015 registered at Kalyan Taluka Police Station for the offence punishable under Section 306 read with Section 34 of IPC.

2. It is the case of the prosecution that on 20.6.2015, one Ramdas Kisan Aher lodged a report at the police station that his family was acquainted with the present applicants. That the present applicants were insisting upon his son Santosh to get married to Sonal or else he should

keep illicit relations with the present applicant No.2. That Santosh informed him about the same. That on 6.2.2015, Santosh had gone to his native village to offer prayers to Goddess. On the same day, the police had come to the house of the complainant and enquired about the whereabouts of Santosh on the ground that the relatives of applicant No.2 had lodged a complaint against him. That whereabouts of Santosh were not known. The complainant had immediately contacted his son and at that time, he had disclosed that the applicant No.2 was in his company. After he returned, the applicant No.2 was sent to the house of the applicant No.1. The relatives of the applicant No.2 had lodged missing report No.15 of 2015 against his son Santosh on 6.2.2015. It is alleged that on 11.3.2015, Santosh had received several phone calls on his cellphone. One of the calls was received by the wife of the complainant, who was informed that the speaker was lady claiming to be the mother of Manish. There was a threat that they would assault the complainant. There was a constant threat from the present applicant and ultimately on 13.3.2015 Santosh had committed suicide in his residential house by hanging himself to the rafters in the said house. Initially, A.D. No.23 of 2015 was registered under Section 174 of Cr.P.C. However, after lodging the FIR, the offence was registered against the present applicants. It prima facie appears that there was some illicit

relations between the deceased and the applicant No.2. Naturally, the relatives of applicant No.2 i.e. her husband, who is applicant No.1, and applicant No.3 happens to be the father of applicant No.2 had threatened Santosh of dire consequences and therefore he had committed suicide. According to the prosecution, Santosh had written suicide note where he had called upon the applicant No.2 also to consume some poison and that he had offered that they should commit suicide. Prima facie, it cannot be said that the applicants herein have abetted, instigated or facilitated the commission of suicide.

3. The learned counsel for the applicant submits that the offence is registered after 3 months and that the delay in lodging the FIR is fatal to the prosecution. However, in the present case, it is only after the suicide notes were found by the complainant, he has lodged the FIR. The delay may not be fatal at this stage. The applicants deserve pre-arrest bail since their custodial interrogation would not be imperative. It is made clear that the observations are prima facie in nature and restricted to an application under Section 438 of Cr.P.C. to determine as to whether custodial interrogation is warranted and, therefore, the observations made hereinabove shall not be considered for the purpose of quashing of FIR,

discharge application or at the time of trial.

ORDER

(i) In the event of their arrest, the applicants be enlarged on bail on each furnishing P.R. Bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

(ii) The applicants shall report to the concerned police station on 13th and 14th August, 2015 between 10.30 a.m. to 1 p.m. and co-operate with the investigating agency to the best of his capacity.

Application stands disposed of.

(SMT.SADHANA S.JADHAV, J.)