

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
AURANGABAD BENCH, AT AURANGABAD.**

Criminal Application No. 4969 of 2016

District : Beed

Vitthal Pandurang Gajare,
Age : 56 years,
Occupation : Agriculture,
R/o. Shelve,
Taluka : Pandharpur,
District : Solapur.

.. Applicant.

versus

1. The State of Maharashtra,
Through Police Inspector,
Ambejogai Gramin Police
Station,
Ambejogai.

2. Superintendent of Police,
Beed.

.. Respondents.

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Mr. Abhijit S. More, Advocate, for the applicant.

*Mr. S.M. Ganachari, Addl. Public Prosecutor, for
respondent nos.1 and 2.*

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CORAM : A.M. BADAR, J.

DATE : 19TH SEPTEMBER 2016

ORAL ORDER:

The applicant / accused in Crime No. 05/2016
for the offence punishable under Section 307 read

with Section 34 of the Indian Penal Code, registered with Ambajogai (Rural) Police Station, District Beed, at the instance of informant Sunita Baban Kadam, by this application, is seeking pre-arrest bail.

2. Heard the learned Counsel appearing for the applicant - accused. He argued that there is delay in lodging the FIR. The incident allegedly took place on 25.01.2016 and the alleged victim was discharged on 26.01.2016. The learned Counsel further argued that she is again stated to have been admitted in the hospital for medical treatment. Subsequently, FIR came to be lodged on 01.02.2016 making prosecution case suspect. The learned Counsel further argued that the main accused is already behind the bar. He further argued that the victim has stated history of consumption of poison. Therefore, complicity of the applicant in the crime in question is not established.

3. As against this, the learned Addl. Public Prosecutor opposed the application by contending that conduct of the present applicant is material. After administering poison to the victim, they had left the victim unattended.

4. Perused papers of investigation. The FIR came to be registered on 1st February 2016 at Police Station, Ambajogai (Rural), District Beed. This FIR

came to be registered on the basis of statement of victim Sunita Kadam recorded while she was admitted at the Government Hospital at Ambajogai after getting her condition certified through the treating Medical Officer.

5. Case of the prosecution is to the effect that the informant developed love relations with co-accused Sachin Asbe. Then they started residing as a couple near Renapur Naka of Latur. Co-accused Sachin Asbe was already married. Subsequently he failed to maintain the informant. The informant therefore joined company of her parents at Dongar Pimple. On 25.01.2016, co-accused Sachin Asbe contacted the informant and called her. The informant then joined company of co-accused Sachin Asbe by boarding the Indica vehicle brought by him. The present applicant is stated to be friend of Sachin Asbe. He was also occupying the Indica vehicle. According to the informant, she was then taken near Kallamb. Thereafter, according to the informant, present applicant held her head and co-accused Sachin Asbe administered poison to her. They both then left her near S.T. Stand. Subsequently somebody admitted her in Rural Hospital at Kallamb and thereafter she was taken to Civil Hospital at Ambajogai. According to the informant, she was initially discharged on 21.01.2016 but subsequently again admitted on 30.01.2016.

6. Version of the informant is corroborated by papers of her medical treatment at Rural Hospital at Kallamb. She was admitted at that hospital on 26.01.2016 as a patient of unknown poisoning. There is nothing to come to the conclusion that the informant had stated history as consumption of poison. The FIR mentions categorically that the present applicant had caught head of the informant so as to facilitate co-accused Sachin Asbe to administer poison to her.

7. In that view of the matter, no case for grant of anticipatory bail is made out.

8. The Application is accordingly rejected.

9. Needless to mention that the observations made in this order are prima facie in nature which shall have no bearing on trial of the case.

(A.M. BADAR)
JUDGE

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