

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

CRIMINAL APPLICATION NO. 5488 OF 2016

Madan s/o. Jagannath Bade .. Applicant

Versus

The State of Maharashtra .. Respondent

**WITH
CRIMINAL APPLICATION NO. 5835 OF 2016**

Latabai w/o. Ashruba Nagargoje .. Applicant

Versus

Madan s/o. Jagannath Bade & Ors. .. Respondents

Mr.R.G. Hange, Advocate for the applicant.

Mr.A.S. Shinde, A.P.P. for respondent/State.

Mr.S.B. Solanke, Advocate for the informant.

CORAM : A.M. BADAR,J.

DATED : 18.10.2016

P.C. :-

1. Applicant/accused in Crime No.124 of 2016, registered with Shirur Kasar Police station, Tq. Shirur Kasar, Dist. Beed, for the offences punishable under section 306 read with section 34 of the Indian Penal Code, by this application is seeking anticipatory bail.

2. Heard learned Counsel for the applicant. He argued that even according to the prosecution case,

alleged illicit relations of the applicant with wife of the deceased were there since last two years. Thus, the deceased had enough time to take legal action against the applicant as well as his own wife. It is further argued that the deceased could have applied for divorce. According to learned Counsel for the applicant, there is no evidence to show that the applicant intended that the deceased should commit suicide. Therefore, custodial interrogation of the applicant is not warranted.

3. Learned A.P.P. opposed the application by contending that sister of the deceased as well as eye-witnesses are resident of the village as well as adjoining areas, are disclosing illicit relations of the applicant with the wife of the deceased and consequent harassment to the deceased resulting in commission of suicide.

4. Perused papers of investigation. According to the prosecution case reflected from the F.I.R. lodged by the sister of the deceased as well as from statements of several witnesses, the applicant was having illicit relations with wife of deceased Balu Bade. This was continuing since last two years. Statements of witnesses show that the applicant used to sleep inside the house of Balu Bade frequently. He had even assaulted deceased

Balu Bade. It is seen from papers of investigation that just a month earlier to suicidal death of Balu Bade, the applicant and co-accused Pushpa Bade were locked inside the house in night hours by villagers, when they were indulged in illicit liaison. Statements of witnesses are showing that this illicit liaison between the applicant and co-accused Pushpa had resulted in torture of the deceased as his image was maligned in the eyes of villagers. It is seen from statements of witnesses that time and again deceased Balu was requesting accused persons not to indulge in such conduct. After the incident of locking the applicant and the wife of the deceased in the house of the deceased in night hours by villagers, deceased Balu had shifted his residence from Bhilvade to Dahiphale Vasti. However, it is seen from papers of investigation that at Dahiphale Vasti also the applicant used to visit the wife of the deceased frequently. Witnesses are stating about oral dying declaration of deceased Balu Bade.

5. Considering the material found from statements of witnesses, it cannot be said that there was no stimulation or instigation by the present applicant to the deceased to commit suicide. Persistent illicit relations with wife of the deceased by the applicant, prima facie, shows intention of the applicant to remove

the deceased from their way. Therefore, it cannot be said that ingredients of abetment as envisaged under section 107 of the Indian Penal Code are missing from the prosecution case. Considering the nature of the offence and the manner in which it took place, I am of the opinion that no case for anticipatory bail is made out. Therefore, the application is rejected.

6. Needless to mention that these observations are prima facie in nature having no bearing on trial.

7. In view of disposal of main application, application of the informant also stands disposed of.

[A.M. BADAR, J.]