

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 240 OF 2016

Umesh A. Gaikwad. ..Applicant.
vs.
The State of Maharashtra. ..Respondent.

Mr.Ganesh Gole for the Applicant.
Mr.S.H.Yadav, APP for the State.
Mr.Amit Gharte for Respondent No.2.

CORAM : A.S.GADKARI, J.
DATE : 02nd March, 2016

P.C.

The applicant is apprehending arrest in CR No.I-355/2015 dated 17.12.2015 registered with Bhiwandi City Police Station, Bhiwandi, District Thane under Sections 306, 504, and 506 of the Indian Penal Code.

2) The first information report is lodged by Smt. Geeta Nitin Patil-wife of the deceased Nitin Patil. In her statement she has stated that her marriage was performed with the deceased on 25.11.2007. At that time the deceased Nitin and his two brothers were working at Collector Office at Thane. The said job was temporary in nature. Her elder co-sister was not doing any work and used to quarrel with her on the count of household work. The family members of the deceased used to harass the complainant. She has further stated that money which was earned by her husband (deceased Nitin) used to be spend by other family members as it was a joint family. That, her husband had invested money in a shop

which was dealing with gadgets for skating. When the husband of the complainant demanded the money back from the family members, the other family members quarrelled with him. The younger brother in law of the complainant got married. After his marriage there used to be quarrel very often. At that time, her mother-in-law informed the complainant to reside separately. It is further stated that there used to quarrel between herself, her brother in law Yuvaraj and her co-sister. Her brother in law Yuvaraj told the complainant and her husband that the house in which the entire family was residing is owned by him and the complainant and deceased should not come to reside with them. That, on 15.11.2015, the deceased had quarrelled with Rahul and therefore, he went to the house of his mother and father. At that time there were altercations between the family members. The deceased told the complainant to go to Baroda. The deceased thereafter informed the complainant that co-accused Rahul had sent Ajay Varkute and Abhay Varkute to assault him. They also told him not to attend the shop. The complainant has further stated that her husband categorically informed her that the present applicant had threatened him that if the deceased attend the shop, the present applicant will cut his hands and legs. The deceased also informed her that the said persons are extending threats continuously and/or causing mental harassment. On 20.11.2015, when the complainant reached at Borivali and she went to her house, she noticed that her husband had committed suicide by hanging himself to the hook of the ceiling. She has further stated that her husband had written a suicide note which was in a diary. In the premise the first information report is

lodged against the applicant and other accused persons.

During the course of investigation the police have seized the suicide note dated 20.11.2015.

3) The learned counsel for the applicant submitted that as a matter of fact after altercations between the deceased on one side and his father and mother on the other side which took place on 15.11.2015, the other family members had in fact called the applicant for resolving the matter. The applicant is the friend of the family members of the deceased. That, the name of the applicant has been falsely taken by the deceased in the present crime. That 3 to 4 days prior to incident the applicant was at Goa and therefore, the statement of deceased is incorrect. He further submitted that on plain reading of the first information report and the suicide note, it discloses that the applicant is not instrumental and has not committed the offence under Section 306. He further submitted that the custodial interrogation of the applicant is not at all necessary. He lastly submitted that the applicant may be granted pre-arrest bail.

4) I have perused the documents annexed to the present application. As stated here in above, in the first information report itself specific allegations have been made against the applicant that he had threatened the deceased Nitin with dire consequences which is prior to the date of the incident i.e. deceased committing suicide note. The suicide note is seized by the police. In the said suicide note the deceased has specifically stated that three to four days prior to the commission of the suicide, the applicant and other persons caused such a mental harassment and torture to the deceased including threats and abuses which ultimately became unbearable

to the deceased and due to which he decided to end his life. The deceased has specifically given the name of the applicant in the suicide note. In the second page of the suicide note the deceased has written a separate letter cum note addressing to his wife, the complainant wherein it is again reiterated that 4 to 5 days prior to the incident, the applicant and other accused persons named in the suicide note had caused mental harassment to the deceased of such an extent that he had decided to end his life. I am of the considered opinion that custodial interrogation of the applicant is necessary. I am of the considered opinion that the applicant along with other accused persons have caused harassment and torture to the deceased which forced him to take the decision to end his life and therefore, Section 306 of the Indian Penal Code is squarely applicable to the present case.

5) After taking into consideration the serious allegations against the applicant which are apparent from the suicide note and the gravity of the offence I am of the considered opinion that custodial interrogation of the applicant is necessary.

6) In view of the above, I am of the opinion that this is not a fit case to grant pre-arrest bail to the applicant. Application is accordingly dismissed.

(A.S. GADKARI, J.)