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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.572 of 2016

Ulhas Prabhakar Bopshetty ..Applicant.

V/s.

State of Maharashtra ..Respondent.

Mr.Rhishkesh Ganu i/b. Ms.Ulka Saranjame and Mr.Yogesh Jadhav for the applicant.

Ms.Veera Shinde, APP for respondent-State.

CORAM : A.M.BADAR, J.

DATED : 10TH JUNE, 2016

P.C. :-

1. The applicant / accused in Crime No.10/2016 for the offence registered under section 302 read with 34 of the Indian Penal Code registered at Sahakarnagar Police Station, Pune by this application is seeking pre-arrest bail.

2. Heard the learned counsel appearing for the applicant. He argued that the applicant is husband of deceased Arti. Arti died after spending 19 years of married life with the applicant and the couple was blessed with one son Onkar. The learned counsel further argued that deceased Arti was working as Manager in Siddeshwar Urban Co-

operative Credit Society and at the instance of one Renuka Waghalkar bearing Crime No.21/2016 came to be registered against the Directors as well as staff members of the credit society. Hence according to the learned counsel for the applicant in all probability deceased has committed suicide but her mother lodged a report alleging offence punishable under section 302 of the Indian Penal Code for which there is no iota of evidence against the applicant.

3. As against this, the learned APP argued that the offence alleged against the applicant is serious warranting custodial interrogation. She further argued that the chit written by the deceased and seized from the house of the applicant was subjected to examination by the Handwriting Expert and it was found that the same was written by deceased. By pointing out the statement of Shivkumar Prabahakar Bopshetty – brother of the applicant, it was argued that the applicant had given inconsistent information to the parental relatives of deceased.

4. Perused the papers of investigation. Post Mortem notes shows deceased Arti died unnatural death. The question

will be whether the death was accidental homicidal or suicidal. The cause is stated to be death due to head injuries.

5. The report lodged by the informant Sarla – mother of deceased Arti goes to show that after the incident on 15th January, 2016 the applicant made a telephone call to her and told her that Arti suffered a fall. First informant further averred that her another son-in-law Shivaji was told that Arti suffered attack. According to apprehension of informant, the applicant as well as elder brother Shivkumar have committed murder of deceased Arti.

6. At this juncture, it is relevant to note that recitals in F.I.R. shows that the informant, her daughters, husband of her daughters and her grandchildren stayed at the house of the applicant for a period of two days after the incident. F.I.R. makes it clear that they all along with Onkar – son of the deceased Arti had inspected the entire house but nothing suspicion was found there-at.

7. Statement of witnesses who are inmates of the house goes to show that as Arti was not found inside the

house, the applicant went downstairs to find her lying in the compound of the building in injured condition. Investigator has recorded spot panchanama which shows that the spot of incident was besides the compound wall of the building. Coagulated blood was found thereat. Photographs of scene of offence was taken by the Investigating Officer.

8. It appears that subsequently, a chit written by deceased Arti was found in the house. Perusal of the chit written by deceased certified by the Handwriting Expert to be in the handwriting of deceased, prima facie, does not show that the deceased suffered homicidal death. This written dying declaration of the deceased relied upon by the Investigating Officer shows that deceased had no complaints against the present applicant and his brother. Except this, there does not appear to be any incriminating evidence against the applicant. At the stage of examining the matter for anticipatory bail, elaborate documentation of the prosecution case and detailed examination of evidence collected by Investigating Officer is not required to be done.

9. Suffice to say that though the alleged offence is

serious in nature, the possibility that deceased committed suicide by jumping from the floor of the building may be because of registration of F.I.R. for misappropriation in respect of the working of the credit society where she was employed, cannot be ruled out. Co-accused is already granted anticipatory bail by the learned Additional Sessions Judge. Nature of the allegations and evidence against the applicant are factors which are required to be considered at this stage. Taking overall view of the material collected, I am of the considered opinion that custodial interrogation of the applicant is not all warranted. Hence the order:-

- (i) The application is allowed;
- (ii) Order dated 5th April, 2016 granting interim anticipatory bail to the applicant is hereby confirmed on the same terms and conditions.
- (iii) In addition, the applicant / accused shall attend Sakaharnagar Police Station, Pune on 19th and 26th Jun, 2016 between 11.00 a.m. to 1.00 p.m.
- (iv) The applicant / accused shall not directly or indirectly make any inducement, threat or promise to any person

acquainted with the facts of accusation against applicant so as to dissuade him from disclosing such facts either to the Court or to any police officer and that he shall not tamper with the evidence;

(v) The applicant / accused shall inform his latest place of residence and cell number after his release and continue to inform the change in residence or cell number, if any, from time to time to the Investigating Officer of the concerned police station and on filing the charge-sheet to the concerned Court;

(vi) The applicant / accused shall co-operate for expeditious disposal of the trial;

(vii) The applicant / accused shall not commit an offence similar to the offence of which he is accused or suspected of the commission;

(viii) The applicant / accused shall not leave India without the prior permission of the concerned Court;

(ix) The application is disposed of accordingly.

(A.M.BADAR, J.)