

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.942 OF 2016

Ajaysing Udham Singh Kachawa
and ors .. Applicants
Versus
The State of Maharashtra .. Respondent

Mr.PB. Patil, Advocate for the applicant.

Mr.Nigel Quraishy i/b Abhijeet Joshi, Advocate for the Intervenor.

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

PSI Smita S. Patil, from Dahisar P.Stn present.

CORAM : PN. DESHMUKH, J.

DATED : 20th JUNE 2016

P.C. :

1 The applicants being husband and in-laws of deceased Smt.Krishna has filed this application for Anticipatory Bail in Crime No.173/16 registered with Dahisar (East) Police Station for the offences punishable under section 306, 498A, 497 IPC r/w section 34 of the IPC.

2 Heard learned counsel for the applicants, learned APP and learned counsel for the intervenor – complainant.

3 It is submitted on behalf of the applicant that from the documents filed along with the application, it cannot be said that either of the applicants had any time prior to the incident or before the incident, had ill-treated deceased or had aided or abetted her to commit suicide, which she committed on 7th April 2016 by hanging.

4 Learned counsel by inviting my attention to various documents filed with the application, has in fact, submitted that from all these documents, it can only be said that report came to be lodged against the applicants belatedly, on 20th April 2016 falsely implicating them, and has thus prayed for grant of bail.

5 Learned APP opposed the application as the investigation is in progress and statements of witnesses are to be recorded, and on the ground that one *chit* which came to be recovered during the course of investigation, needs to be forwarded to the hand-writing expert, and on the ground that since applicants are named in the FIR in the event they are released on Anticipatory Bail, they would tamper with the investigation. Perused the documents. From the statements of witnesses recorded during the course of investigation, it is revealed that applicant no.1 Ajaysing was having some affair with one female from the same office, which fact was known to the deceased.

6 From the report lodged by Dilip - father of the deceased admittedly on 20th April 2016, in respect of incident

which took place on 7th April 2016, it is claimed that on the day of incident, deceased had phoned complainant at 8.00 p.m as usual and inquired about his health condition. On the same day, at 9.15 a.m, applicant Udhamasing informed complainant that Smt.Krishna should be saved as she is intending to commit suicide. Accordingly, complainant tried to contact Smt.Krishna on phone, however, he could not get the line through, and therefore, from applicant no.1, complainant obtained telephone numbers of his neighbors and contacted one Mr.More who had informed that Krishna had committed suicide by hanging at around 10.15 a.m. of which report came to be lodged on 20th April 2016 as noted earlier. Learned APP, on instructions from Investigating Officer who is present in the Court, makes a statement that admittedly, at the time of incident, applicant was not present on the spot.

7 No satisfactory explanation is put forth by prosecution for the belated report. On the contrary, from the say of prosecution filed before the learned trial Court, it is stated that during the course of investigation, on interrogating brother of deceased and her father, it revealed that at the time of incident, deceased was not happy in her married life, and therefore, under depression, she had committed suicide. Though from the say of prosecution, it further reveals that during the course of investigation from the bag of deceased, one diary having one *chit* therein came to be seized wherein deceased had stated that she is committing suicide as she was cheated, there is no mention of such *chit* anywhere in the report, though there is reference to applicant no.1 producing bag of deceased on 8th April 2016 containing therein diary. Learned APP, on obtaining instructions

from Investigating Officer makes a statement at bar that the suicide note was not recovered from the diary, but that was recovered from the spot.

8 Thus, the reply filed by prosecution before the trial Court does not appears to be according to the facts as there is specific mention of recovery of chit from diary.

9 Without going into the details on these aspects, on perusal of further documents filed with the application, it reveals that the dead body of deceased was given in custody of applicant no.1 by police on 7th April 2016 after the post mortem examination was carried out, and last rites were performed and funeral was performed on 8th April 2016 at Chalisgaon. On the same day, it appears that some agreement was entered into between complainant – Dilip, father of deceased and applicant no.1 – husband and applicant no.3 – father-in-law of deceased, and it was agreed that one flat bearing No.403 situated at Moshi Pune owned by applicant no.1 shall be transferred permanently in the name of his son Anurag who is four years old, and applicant had taken over responsibility of repaying of loan amount. It was further agreed that all the gold ornaments weighing about 25 tolas shall be returned by applicant no.1 to complainant which shall be kept for use of Anurag, and agreeing as such, it is stated that there are no other disputes between the parties, having been settled on entering said Memorandum of Understanding.

10 From the contents of FIR, there is nothing to establish that any ill-treatment was provided by any of the applicants to the

deceased, or they had abetted commission of her suicide on 7th April 2016.

11 Moreover, it appears that all the disputes whatsoever were in existence between the complainant and the applicants were set right on 8th April 2016 on which date they had entered an agreement, and it *prima facie* appears that thereafter applicants came to be falsely implicated by lodging report on 20th April 2016.

12 In that view of the matter, though investigation is in progress, application is liable to be allowed by imposing suitable conditions on the applicants as per order below

ORDER

i) In the event of arrest of the applicants involved in Crime No.173/16 registered with Dahisar (East) Police Station, they shall be released on bail on their executing PR bond in the sum of Rs.20,000/- each with one surety in like amount

ii) On being released on bail, applicants shall mark their presence with the Investigating Officer on 27th, 28th and 29th June 2016 as stated by learned APP, on instructions from IO, and thereafter, applicant no.1 shall attend the IO twice in a week till 10th July 2016 and applicant nos.2 and 3 shall attend as and when required till filing of the charge-sheet.

(PN. DESHMUKH, J)