

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1724 OF 2016

Bhibhisen Narayan Adaling.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Aniket U. Nikam i/b. Mr. Aashish Satpute, advocate for Applicant.

Mr. Prashant Jadhav, APP for State.

Mr. Nilesh Badakh, API, Karmala Police Station.

**CORAM : SMT. SADHANA S. JADHAV,J
DATE : OCTOBER 4, 2016**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under Section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 369 of 2016 registered at Karmala Police Station for the offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

3 It is the case of the prosecution that on 15/8/2016 Sharada Durgude, mother of Rupali lodged a report at the police station alleging therein that her daughter Rupali was married to present applicant. On 27/7/2016 at about 6.30 a.m. she realised that her daughter was not feeling well. Her daughter had also admitted that she was not keeping well and she was taken to hospital. The mother had realised that Rupali had consumed poison. She was taken to the hospital of Dr. Pandhare. She was then taken to the hospital at Karmala. From Karmala, she was transferred to Ashwini Hospital at Akluj. She succumbed to the poison on 28/7/2016. On 15/8/2016 mother lodged a report alleging therein that the present applicant used to suspect the character of Rupali. He had levelled allegations against her and has humiliated her and therefore, she had committed suicide. Hence, the applicant is being prosecuted for offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

4 Perused the papers of investigation. It is a matter of record that the deceased Rupali had consumed poison when she was in the house of her mother. She was staying with her mother for a long time. The mother had disclosed the incident of 24/7/2016 wherein the applicant had come to the house as he happens to be a friend of Somnath who is the brother of Rupali. The maternal cousin of Rupali was present in the house. The applicant has suspected the relations between Rupali and her maternal cousin and hence, she has committed suicide. It cannot be said that the applicant had abetted, instigated or facilitated the commission of suicide. In the present case, custodial interrogation would not be imperative. Hence, the applicant deserves pre-arrest bail.

5 However, it is made clear that the observations made herein above are prima facie in nature and are restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The learned Sessions Judge shall not be influenced by the same at the

time hearing of application for discharge or quashing of FIR or at the time of trial.

6 Hence, following order is passed.

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in Crime No. 369/2016, the applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- and one or more sureties in the like amount.
- (iii) The applicant shall report to the police station on 7/10/2016, 8/10/2016 and 9/10/2016 between 10 a.m. to 12 noon and cooperate with the investigating agency to the best of his capacity.
- (iv) The applicant shall not tamper with the evidence.

7 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)