IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2090 OF 2016

Mr. Uddesh Sitaram Khaire ... Applicant
Vs.
The State of Maharashtra … Respondent

Mr. Vinayak Patil, Advocate for the applicant.
Mr. S.H.Yadav,APP, for the State.
Mr. V.M.Tadkari, PSI, Mahad Taluka Polcie Station.

CORAM: SMT.SADHANA S.JADHAV, J.
DATE : 23rd November, 2016.

P.C.

Heard. This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 5.5.2016 in Crime No.31/2016 registered at Mahad Taluka Police Station, Dist. Raigad for the offences punishable under Sections 376(2)(n) and 306 read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that on 26.4.2016, Rupali Jadhav lodged a report at the police station alleging therein that at the time of marriage of her brother in 2008, she had met the present applicant who happens to be the cousin of her sister-in-law. They got acquainted with

each other. They started communicating with each other. Thereafter, they both had decided to get married. That in the interregnum, they had sexual intercourse. She believed that she was to get married to him and therefore had consented to the sexual intercourse. He kept on avoiding the issue of marriage on the ground that he was not yet employed and that he would marry her after he gets an employment. She has narrated the occasions when they had sexual intercourse. According to her, subsequently, on 18.4.2016, he had informed her telephonically that he does not intend to get married to her. She felt cheated. Hence, she lodged first information report and thereafter she started living with her sister Jyoti at Mahad. On the basis of the said report, Crime No.31 of 2016 was registered at Mahad Taluka Police Station against the applicant for the offence punishable under Section 376(2)(n) of the Indian Penal Code. The applicant was not arrested in Crime No.31 of 2016.

3. On 30.4.2016, Jyoti Sakpal lodged a report at the police station alleging therein that on 29.4.2016 at about 6 a.m., her daughter Mansi aged about 7 years woke her up and drawn attention to Rupali. That Rupali had committed suicide by hanging. She lodged first information report at the police station alleging therein that Rupali was in love with the present

applicant. They had sexual intercourse and thereafter he had refused to marry her and therefore, she committed suicide. It is also stated in the FIR that Rupali had left a suicide note. On the basis of the said report, Crime No.31 of 2016 is registered at Mahad Taluka Police Station against the applicant for the offence under Section 306 of iPC. The applicant is in custody. The investigation is completed and charge sheet is filed.

4. Upon perusal of the papers of investigation, it is clear that Rupali had left a suicide note contending therein that she is in love with the present applicant. She had lodged FIR against the applicant for the offence under Section 376 of IPC, but she had no intention that the applicant should be punished for the same as she was in love. She had expressed her deep love for the applicant.

5. Taking into consideration the papers of investigation, more particularly the suicide note, it is clear that the applicant had rather denied to marry, but had never intended that she should commit suicide. The applicant was not arrested. She committed suicide in her sister's house after about a week of having lodged the FIR on the basis of which Crime No.31 of 2016 was registered. Hence, prima facie, it cannot be said that the

applicant had abetted, instigated or facilitated the commission of suicide.

6. The observations are restricted to an application under Section 439 of Cr.P.C. and shall not be considered for the purpose of quashing of FIR, discharge application or at the time of trial.

O R D E R

(i) The application is allowed.

(ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.25,000/- with one or more solvent sureties in the like amount.

Application is allowed and disposed of.

(SMT. SADHANA S.JADHAV, J.)