

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL BAIL APPLICATION NO. 2165 OF 2016

Shri Deu Bajju Bodake	...	Applicant
Vs.		
The State of Maharashtra	...	Respondent

Mr. Anand S. Patil, Advocate for the applicant.

Mr. Vinod Chate, APP, for the State.

Mr. Rajendra A. Sanap, PSI, Karveer Police Station, Kolhapur present.

CORAM: SMT.SADHANA S.JADHAV, J.

DATE : 30th November, 2016.

P.C.

This is an application under Section 439 of Cr.P.C. The applicant herein is arrested on 20.6.2016 in Crime No.185 of 2016 registered at Karveer Police Station, Kolhapur. The investigation is completed and charge-sheet is filed against the present applicant on 18.6.2016 for the offences punishable under Sections 306, 506 read with Section 34 of the Indian Penal Code.

2. It is the case of the prosecution that on 20.6.2016, Rajaram Bodekar lodged a report at the police station alleging therein that Pallavi was his niece. Pallavi and Nikita were residing just next to the house of the

first informant. Pallavi used to work as a housemaid in the area of Tarabai Park. Her sister Nikita was studying in college. It is the case of the first informant that in the week preceding 20.6.2016, Pallavi had informed him that whenever she is going for work, she is being stalked by the present applicant and his friends and that the present applicant insist upon her to get married to him. At times, his friends follow her and insist upon her to get married to the present applicant. On 19.6.2016, Pallavi had committed suicide in her house by hanging herself to the rafter in her house. On the basis of the said report, Crime No.185 of 2016 was registered at the police station.

3. Perused the papers of investigation.

4. It appears that initially a report was given to the police station about the suicidal death of Pallavi on 19th itself. The entry was taken on the Station Diary at Sr. No.27 at about 8.57 p.m. Spot panchnama was conducted on 19.6.2016 from 8.10 p.m. to 9.05 p.m. in Station Diary Entry No.72 of 2016. It appears that in the spot panchnama, the investigating agency had found a chit which was scribed by deceased Pallavi. She had stated in the said chit that “she was being harassed by the present applicant

and his friends, thereby insisting upon to get married to the present applicant. She has no parents. She felt helpless and therefore, she was committing suicide.

5. It is pertinent to note that although it is stated in the panchnama that the chit was seized. The chit does not form a part of the charge-sheet. The investigating officer is present in the Court and on instructions, the learned APP submits that the chit has been sent for the handwriting expert's opinion and, therefore, it does not find place in the charge-sheet. Needless to say that the scene of offence panchnama is preceding registration of offence. Accidental death was not registered and it appears that only after the chit was found on the next day, the first information report was lodged. It is stated in the first information report that Pallavi had disclosed to her uncle about the harassment at the hands of the present applicant and his friends. Upon instructions, the learned APP submits that no non-cognizable case was registered at any police station against the present applicant or his friends. Upon a query made to the learned APP as to why scene of offence panchnama does not mention either A.D. number or any other entry. It is stated that there is station diary entry. Since there was law and order situation, no A.D. could be registered.

6. This Court has perused the compilation of the investigation papers and has seen the suicide note. It is true that the papers of investigation would reveal that the applicant was indulging into stalking the victim Pallavi. The charge-sheet is not filed under Section 354-D of the Indian Penal Code. Section 354-D(1) reads as follows :-

“354-D: Stalking

“(1) Any man who—

(i) follows a woman and contacts, or attempts to contact such woman to foster personal interaction repeatedly despite a clear indication of disinterest by such woman; or

(ii) monitors the use by a woman of the internet, email or any other form of electronic communication, commits the offence of stalking;

7. The punishment prescribed in Section 354-D is for a term which may extend to 3 years and fine. Section 354-D is a cognizable and bailable offence. It is unfortunate that the girl had committed suicide only because she did not have parents. She had disclosed the fact to her uncle. However, he had not taken any action against the present applicant or his friends.

8. On the basis of the suicide note and the statements of the witnesses, this is a fit case where the charge needs to be framed under Section 354(D) of the IPC **also**. There is more than sufficient incriminating material which would warrant conviction under Section 354(D) of the IPC. There is an alarming threat to the dignity and modesty of women. Their life is made miserable by anti-social elements like the present applicant. Vulnerable girls, like the victim in the present case, choose to end their life for want of support. The legislature has therefore rightly incorporated the act of stalking under Section 354(D) of the IPC. Unfortunately in the present case charge-sheet is not filed under Section 354(D) of the IPC.

9. The learned APP submits that since the victim and the first informant belong to the economically backward class, they could not take any action against the present applicant who had created a terror in the said area. The first informant had apprehended danger at the hands of the present applicant and, therefore, he had not approached the police station. In the facts of the present case, it cannot be said that the applicant had instigated, abetted or facilitated the commission of suicide. In view of this, the applicant deserves to be enlarged on bail since he is in custody for the last almost six months. The investigation is completed and charge-sheet is filed.

10. The above observations are restricted to an application under Section 439 of Cr.P.C. and shall not be taken into consideration for the purpose of quashing of FIR or discharge application.

ORDER

- (i) The application is allowed.
- (ii) The applicant be enlarged on bail on furnishing P.R. Bond in the sum of Rs.50,000/- with one or more sureties in the like amount.
- (iii) The applicant shall report to Karveer Police Station on first Sunday of each month till conclusion of the trial.
- (iv) The applicant shall not enter into the jurisdiction of Karveer Police Station, Kolhapur, till conclusion of the trial.

(SMT. SADHANA S.JADHAV, J.)