

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE SIDE JURISDICTION
CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1985 OF 2016

Vikram Vasudev Jagadale

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Jaydeep D. Mane Advocate for Applicant.

Mr. Prashant Jadhav APP for the State.

Mr. B. D. Koli, A.P.I. Solapur Taluka Police
Station.

CORAM : SMT. SADHANA S. JADHAV, J.

DATED : 18th NOVEMBER, 2016.

PC :

1) Heard. This is an application under section 438 of Code of Criminal Procedure, 1973. Applicant herein is apprehending his arrest in crime no. 459 of 2016 registered at Solapur Taluka police station for offence punishable under sections 306, 354 and 452 of the Indian Penal Code.

2) It is the case of the prosecution that on 25/10/2016, Dattatray Bhosale lodged a report at the police station alleging therein that the father of the present applicant runs a grocery shop near his house. That his wife and his daughters had cordial relations with the parents of the present applicant as

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well as the applicant. According to the complainant, on 18/10/2016, when he returned home, he saw his wife crying and his grandfather was present in the house. Upon enquiry, his wife had disclosed that on the earlier day i.e. on 17/10/2016, at about 11.30 p.m., when the first informant was on duty, his wife and his two daughters were sleeping in the house. It is alleged that the applicant had knocked at the door and that his wife opened the door. Applicant had entered into the house forcibly and had attempted to outrage her modesty. She had raised hue and cry and upon hearing her cries, his grandfather who was sleeping in the court yard had rushed into the house and upon seeing the grandfather, applicant had fled from her house. The first informant had tried to pacify his wife. In the early hours on 18/10/2016, at about 4.00 a.m., when the first informant woke up, he saw his wife hanging. She had committed suicide by hanging herself to the ceiling fan. On 25/10/2016, the first informant lodged a report on the basis of which applicant herein is being prosecuted for offence punishable under section 306, 354 & 452 of the Indian Penal Code.

3) The learned counsel for the applicant submits that there is no possible explanation for inordinate delay in lodging the F.I.R. and that it is an after

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thought.

4) Upon perusal of papers of investigation, it is clear that the cause of death is mentioned in the post-mortem notes is “Asphyxia due to hanging”. Applicant would at the most be prosecuted for offence punishable under sections 354 & 452 of the Indian Penal Code, however, it cannot be said, at least for the time being that the applicant had abetted, instigated or facilitated the commission of suicide. The victim was hypersensitive and had not even waited for any legal action to be taken against the applicant. It is in these circumstances that the applicant deserves pre-arrest bail. However, applicant shall not reside at village Ule, till filing of the charge-sheet. However, it is made clear that observations made herein above are prima facie in nature and restricted to an application under section 438 of the Code of Criminal Procedure, 1973 and shall not be considered for quashing of F.I.R., discharge application or at the time of trial.

ORDER

- (i) Application is allowed.
- (ii) In the event of arrest, applicant be enlarged on bail on furnishing P.R. bond in the sum of Rs. 50,000/- with one or more solvent sureties in the like

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amount.

(iii) Applicant shall not reside at village Ule, till the filing of the charge-sheet.

(iv) Applicant shall attend to Solapur Taluka Police Station on 23rd, 24th and 25th of November, 2016 and co-operate with the investigating agency to the best of his capacity.

(v) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)