

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE SIDE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1986 OF 2016

Jakirhussain Abdul Sattar Pirjade

.....Applicant

V/s.

The State of Maharashtra

....Respondent

Mr. Jaydeep D. Mane Advocate for Applicant.

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

Mr. Dnyaneshwar Chavan, PSI, Vijapur
Police Station, Solapur.**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. 420 of 2016 registered at Vijapur Naka Police Station, Solapur for offence punishable under sections 306 and 498 of the Indian Penal Code.

2) It is the case of the prosecution that on 17/09/2016, one Imambi Pirjade aged about 45 years old was admitted in Civil Hospital, burn ward. It

appeared to be medico-legal case and hence, her statement was recorded. She disclosed to the police that she is the mother of two sons and a married daughter. That her husband was prosecuted for offence punishable under section 302 of the Indian Penal Code and was lodged in Yerawad Central Jail. During that period, she had developed intimacy with the present applicant. Her son had learnt about the illicit intimacy between applicant and Imambi. He had informed her father about the same and thereafter, she was residing with her father and brother at Hotgi. Present applicant was visiting her even there and therefore, her father had driven her out from Hotgi. Thereafter, she started residing at Hatturvasti. Applicant used to visit her as the shed where she was residing was taken on rent by the present applicant. She had informed the applicant that there is no sufficient grocery in the house and therefore, she was insisting upon him to give her money. He had told her that she should go and reside with her husband who has been enlarged on bail. There used to be intermittent quarrels between her and applicant and that he had threatened her that he would implicate her two sons in false cases. On 15/09/2016 also, there was a quarrel between the applicant and Imambi. She got frustrated, she latched the door from inside and thereafter immolated herself. That the friend

of present applicant namely Daud Inamdar was present. Her neighbours and Mr. Inamdar had taken her to the Civil Hospital and admitted her. It is in these facts that the applicant is being prosecuted for offence punishable under section 306 of the Indian Penal Code.

3) Perused papers of investigation. Investigating officer has recorded the statement of Daud Inamdar. His statement is also recorded under section 164 of the Code of Criminal Procedure, 1973. He had disclosed that the present applicant happens to be his maternal cousin. That on 15/09/2016, there was a quarrel between Imambi and present applicant. The present applicant had called upon Daud to resolve the dispute and give her understanding. He had reached the spot. By then, Imambi had latched the door from inside. After Daud and the present applicant insisted, she opened the window and he saw that she had drenched herself in kerosene and was about to ignite the match stick. She had immolated herself. He had broke open the door and then taken her to the hospital.

4) It is apparent from the papers of investigation that after Imambi was abandoned by her father and brother, applicant was taking care of her and she was lodged in a room rented by the applicant at Hatturvasti. There used to be

intermittent quarrels between the applicant and the deceased. She has specifically stated in the dying declaration that after the applicant had left the spot, she had attempted to commit suicide. Applicant had, in all probabilities apprehended that she may cause harm to herself and therefore had waited outside the house and called upon his cousin. There must have been quarrels between them, but by itself, it cannot be said that the applicant had facilitated, instigated or abetted the commission of suicide and therefore, applicant deserves to be granted pre-arrest bail. 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. 25,000/- with one or two sureties in the like amount.
- (iii) Applicant shall report to the Vijapur Naka Police Station, Solapur on 4 consecutive Sundays, commencing from 27/11/2016 between 10.00 a.m. to

12.00 noon and co-operate with the investigating agency to the best of his capacity.

(iv) Application stands disposed of.

(SMT. SADHANA S. JADHAV, J.)