

IN THE HIGH COURT OF JUDICATURE AT BOMBAY:
NAGPUR BENCH : NAGPUR
Criminal Application [BA] No.969 of 2016
[Aman Dipak Kudve Vs. State of Mah.]

**Office Notes, Office Memoranda of
Coram, appearances, Court's orders
or directions and Registrar's orders.**

Court's or Judge's orders

Mr. Anjan De, Adv., for the applicant.
Mr. Palshikar, APP for respondent.

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CORAM : P.N. DESHMUKH, J.

DATE : 21st December, 2016

Applicant, who is accused in Crime No. 328/16 registered with Ramnagar Police Station, Chandrapur, for offences under Sections 376 (D) (2) (I), (N), 305, 313, 404, 506 read with Section 34 of Indian Penal Code, and read with Sections 4,5 (G) (2) (L) (6) of the Protection of Children from Sexual Offences Act, 2012, has filed this application for grant of bail.

Heard learned counsel for the applicant and learned APP for the respondent-State.

Learned counsel for the applicant submitted that the case of the prosecution is based on the contents of a Suicide Note alleged to have been written by deceased Roshani, daughter of complainant – Maya Patil, and by referring to the contents of said suicide note as well as of report, he submitted that there is nothing to establish that the applicant had instigated commission of suicide by Roshani which took place on 16th March, 2016 by hanging in her house. The learned counsel also argued that though, according to prosecution, deceased was minor at the time of incident, since there is no evidence to establish involvement of the applicant, in any manner, as an instrumental person for her suicide, the application be allowed. He contended that the charge-sheet is also filed.

Learned APP opposed the application as per the reply filed on record, on the count that the deceased was minor and involvement of the applicant is clearly established from the suicide note.

In the background of submissions as aforesaid, on perusal of report lodged by Maya, this Court finds that on 16th March, 2016, Roshani committed suicide by hanging at her house at 3.00 p.m. It is further seen that in the suicide note, which was found in the note book lying on the bed in the room, the deceased had mentioned the names of three persons, i.e., Karan, Krishna and one Bambu who sexually assaulted her.

Involvement of applicant is only because he allegedly had physical relations with deceased, due to which she was carrying a pregnancy, which was aborted. The deceased had stated in the suicide note that relations between her and applicant were cordial and even they had decided to marry. However, as the applicant did not meet her since a week, because he had indulged into love relations with some other girl, of which development she came to know, she committed suicide.

Thus, as can be seen from the suicide note, the applicant can be said to have his involvement in the incident only because he did not meet the deceased for a period of one week prior to which she committed suicide. From the contents of the report, it is established that deceased was not sure that the applicant indulged in love relations with some other girl, as, according to Roshani, she only learnt about the same and due to that, was unhappy.

Apart from the report, on perusal of suicide note, it is seen that admittedly there is nothing to establish that the suicide note was in the hand writing of deceased, as earlier hand writing of deceased prior to her death was not compared with that of on suicide note and there is no report of an expert to that effect. It is, thus, noted that after Roshani was subjected to sexual intercourse by Krishna, Karan and Bambu, she was mentally unstable and was throughout in tension as she

could not disclose the said fact to anyone due to threats extended by these three persons and she, in fact, stated that during that period, it is the applicant who had supported her and during that period, she developed love relations with him.

Having considered the facts as aforesaid, though prima facie the deceased appears to be minor aged 16 years, neither from the report nor from the contents of suicide note, it can be said that the applicant immediately prior to deceased committing suicide by hanging on 16th March, 2016, had abetted her in any manner to do so.

Since investigation is complete and considering the facts aforesaid, the application is liable to be allowed as per the order below:-

- [a]** The applicant shall be released on bail on his executing a Personal Bond in the sum of Rs. 20,000-00 [rupees twenty thousand only] with one surety in the like amount.
- [c]** While on bail and pending trial, the applicant shall mark his presence with Ramnagar Police Station, Chandrapur, once in three months on first day of each such month.
- [d]** On the applicant's release on bail, he shall

forthwith submit to the concerned Police Station a proof of his address within whose jurisdiction and where he presently resides, and in the event of any change therein in future, shall inform the same to such Police Station.

Judge

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