

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

DISTRICT : DHULE

913 CRIMINAL APPLICATION NO. 5150 OF 2017

RAKHI W/O HEMANT SATBHAI & ANR.

VERSUS

THE STATE OF MAHARASHTRA

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Mrs. Rashmi Kulkarni h/f Mr. S.S.Kulkarni,
Advocate for Applicants.

Mr. S.Y.Mahajan, A.P.P. for Resp. - State.

Mr. Amol Sawant, Advocate for assist to A.P.P.

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CORAM : V.L.ACHLIYA, J.

DATE : 10th NOVEMBER, 2017

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ORAL ORDER :

1. The applicants have moved this application seeking anticipatory bail on an apprehension of arrest in connection with the offence registered u/s 306,323,504,506 r/w 34 of the Indian Penal Code vide Crime No. 96/2017 with Mohadi police station, Taluka and

District Dhule.

2. Heard the learned counsel for the applicants and A.P.P. for the respondent - State. Perused the papers of investigation as well as the order passed by the learned Additional Sessions Judge, granting bail to all other accused except the applicants.

3. Learned counsel for the applicants contended that the allegations made in the F.I.R. which itself was lodged after eight days of the incident making out no case to attract the offence u/s 306 of I.P.C. It is contended that the applicant is 3rd wife of the deceased. As per the facts disclosed in the F.I.R., in the year 2001 the deceased married to one Archana. Sometime after the marriage, she deserted the deceased. After divorce from the first wife in the year 2005, the deceased married to one Shital resident of Jalgaon. After giving birth to one child when the child was about 1 ½ years of age, Shital died. In the year 2015, the marriage of the deceased was performed with applicant No. 1. In this back-ground, learned counsel submits that the deceased was man of disturbed mind. He used to pick up unnecessary quarrel with applicant No. 1. He was suspecting the character of applicant No. 1. Due to this reason, the applicant No. 1

required to give up company of the deceased. On 21/08/2017, the deceased committed suicide. The father of the deceased who was carrying personal grudge against applicant No. 1 lodged false complaint against the deceased, which has resulted into registration of said offences. It is further pointed out that in the F.I.R. lodged on 29/08/2017, there is no reference of suicide note left behind by the deceased. In the back-ground of the facts of the case and the allegations made in the F.I.R., learned counsel submits that there is no prima facie case exist to attract the offence u/s 306 of I.P.C. The matrimonial discord resulted into strain relationship between deceased and applicant No. 1 can not be reason to draw conclusion that the applicants have committed an act of aiding and abetting the deceased to commit suicide. It is contended that except the applicants, all other accused are granted anticipatory bail by the learned Sessions Judge.

4. On the other hand, learned A.P.P. and the counsel representing the informant opposed the application with the contention that there is strong evidence to connect the applicants with the offence alleged. By referring the suicide note alleged to be left behind by the deceased and the statements of certain

witnesses and particularly the employee working in the hotel run by the deceased in the premises of Hire Medical College, it is contended that there is evidence to show that there was continuous illtreatment and harassment to the deceased at the hands of applicants. It is further contended that during the course of investigation, it is revealed that applicant No. 1 was maintaining illicit relationship with one Azhar. Due to continuous illtreatment and harassment at the hands of the applicants and their relatives, the deceased has committed suicide. It is contended that the investigation is in progress. If the applicants are enlarged on anticipatory bail, there is every likelihood that they may tamper with the prosecution witnesses.

5. On due consideration of the submissions advanced in the light of F.I.R., the statements of witnesses and purport of section 306 of I.P.C., I am of the view that case is made out to entertain the application seeking anticipatory bail. In order to attract the offence u/s 306 of I.P.C. there must be co-relation between the act alleged complained on the part of the accused leading to commission of suicide by the deceased. In order to attract the offence u/s 306 of I.P.C., there must be an act

of abetment as defined u/s 107 of I.P.C. It necessarily requires some intentional act on the part of accused to aid and abet the person to commit suicide.

6. If we consider the overall facts of the case, then there is history of disturbed mental condition of the deceased. The marriage of deceased with applicant No. 1 was the 3rd marriage. First marriage of the deceased resulted into divorce. Due to the death of 2nd wife, the deceased performed marriage with applicant No. 1 who was divorcee. As mentioned in the F.I.R., for a period of six months there was no quarrel and dispute amongst applicant No. 1 and deceased. Subsequently, there used to be frequent quarrel amongst them on account of various reasons which include the alleged extra marital affairs of applicant No. 1. It also reflects that there was no cordial relationship between applicant No. 1 with her in-laws. It leads to shifting of deceased with applicant No. 1 in the premises of quarter. During that period also, there was no smooth relationship between them. The efforts made to resolve their dispute resulted in-vain. It appears from the F.I.R. that at the time of incident, the deceased was residing with his parents. There was quarrel on 18/08/2017 between applicant No. 1 with

deceased and his parents. Applicant No. 1 gave threat to lodge complaint against them. Possibility can not be ruled out that on account of disturbed state of mind, the deceased has committed suicide.

7. Perusal of alleged suicide note also reflects the disturbed state of mind of the deceased on account of frequent quarrel with applicant No. 1 and her family members. The deceased has mentioned in the suicide note that the applicants and other members of their family be hanged, which itself indicates the anger the deceased was carrying against the applicants and her family members. If the overall facts of the case are viewed from the view point of person judging the facts and circumstances of the case independently, in my view, no inference can be drawn that the applicants aided or abetted the commission of suicide by the applicants.

8. In view of above, I am inclined to allow the application and pass the following order.

ORDER

1. The application is allowed.

2. In the event of arrest of applicant No. 1 Rakhi w/o Hemant Satbhai and applicant No. 2 Amol s/o Ramesh Bhamre in connection with offences u/s 306,323,504,506 r/w 34 of I.P.C. vide Cr. No. 96/2017 registered at Mohadi police station, Taluka and District Dhule, they be released on bail on their furnishing bail in the sum of Rs. 25,000/- [Rupees Twenty Five Thousand] each with one surety in like amount on following conditions.

[i] The applicants shall appear before the Investigating Officer in Mohadi police station, Taluka and District Dhule on 14/11/2017 at 11.00 a.m. and thereafter as and when directed by the Investigating Officer and co-operate in the investigation.

[ii] Till filing of charge sheet, the applicants shall attend concerned police station on every Sunday between 10.00 a.m. to 11.00 a.m. to record their presence before the Investigating Officer.

[iii] The applicants shall not indulge into act of tampering the prosecution evidence and witnesses.

3. Failure to comply with any of the conditions of bail, the anticipatory bail granted to the applicants will be liable to be cancelled.

4. The application stands disposed of in above terms.

5. The parties may act upon the authenticated copy of this order.

[V.L.ACHLIYA, J.]

KNP/Cr. Apln. 5150.2017