

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

DISTRICT : DHULE

3 CRIMINAL APPLICATION NO. 5729 OF 2017

HARSHALA @ DIPALI DNYANESHWAR BADGUJAR

VERSUS

THE STATE OF MAHARASHTRA

.....

Mr. D.B.Thoke, Advocate for Applicant.

Mr. K.N.Lokhande, A.P.P. for Resp. - State.

.....

CORAM : V.L.ACHLIYA, J.

DATE : 10th NOVEMBER, 2017

.....

ORAL ORDER :

1. The applicant apprehending arrest in the offence registered u/s 306 r/w 34 of the Indian Penal Code vide Crime No. 100/2017 with Songir police station, Tal. and District Dhule preferred this application seeking pre-arrest bail.

2. Heard the learned counsel for the applicant and A.P.P. for the respondent - State. Perused F.I.R. and the suicide note alleged to be left behind by the husband of the applicant. Also perused the order passed by Sessions Court.

3. Learned counsel for the applicant contended that the allegations made in the F.I.R. even if taken to its face value and accepted in its entirety to be true and correct, still no offence u/s 306 of I.P.C. is attracted against the applicant. There was matrimonial discord between the applicant and the deceased. The deceased was suspecting character of the applicant and illtreating her. Due to this reason, the applicant was required to give-up the company of the applicant. She was residing at Nashik about four months before the alleged commission of suicide. On 20/07/2017 the applicant had lodged complaint with Women Redressal Commission at Dhule against the deceased and his family members. The Commission directed to enquire into grievance of applicant. Deceased was summoned to appear before the Commission on 01/08/2017 for counseling. On 18/08/2017 the deceased found to have committed suicide. In this back-ground, the learned counsel submits

that by no stretch of imagination it can be inferred that the applicant has aided or abetted the deceased to commit suicide. In the light of allegations made in the F.I.R., learned counsel submits that on the basis of complaint lodged by the father of the deceased, there is every likelihood that the applicant may be arrested, humiliated and harassed for no offence committed on her part. The applicant is working as Lecturer. She is handicapped. The applicant is ready and willing to co-operate in the investigation.

4. On the other hand, learned A.P.P. opposed the application with the contention that looking to the serious nature of the offences and the contents of suicide note, the applicant do not deserves to be granted anticipatory bail. He submits that in the suicide note, it is clearly mentioned that on account of illtreatment, harassment and threat given by the applicant and her parents, the deceased is committing suicide. He, therefore, urged to reject the application.

5. In order to appreciate the submissions advanced, I have perused the F.I.R. as well as suicide note. The marriage between the deceased and the

applicant was solemnized on 06/02/2017. The applicant was working as a Lecturer, whereas the deceased was working in some factory at Sinnar. Within a period of about few months of marriage, the dispute cropped up between the applicant and the deceased. The deceased was suspecting the character of the applicant. On account of frequent quarrel, the applicant left the house of the deceased and started residing separately at Nashik where she was working. The attempts made to bring reconciliation amongst them resulted in-vain. The applicant lodged complaint with the District Women Redressal Commission. The complaint was lodged on 20/07/2017. The Commission issued notice to the deceased and his parents summoning them to appear before the Commission on 01/08/2017 so as to bring reconciliation amongst them. It prima facie appears that on account of matrimonial discord and differences with the applicant in the state of frustration, the deceased has committed suicide. In the facts and circumstances of the case, it is difficult to accept that the applicant intended the deceased to commit suicide. 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. In this view, there is case in favour of the applicant to grant anticipatory bil.

In the event the applicant is not protected, there is every likelihood that she may be arrested which may result in serious consequences. She is working as a Lecturer. The applicant is having deep roots in the society. Therefore, considering the overall nature of the case and the allegations made in the F.I.R., I am of the view that the case is made out to extend protection u/s 438 of Cr.P.C. to the applicant. Granting anticipatory bail would not hamper the investigation of the case. Hence, the following order.

ORDER :

[1] The application is allowed.

[2] In the event of arrest of the applicant Harshala w/o Dipali Dnyaneshwar Badgujar in the offence registered u/s 306 r/w 34 of the Indian Penal Code vide Crime No. 100/2017 with Songir police station, Tal. and District Dhule the applicant be enlarged on bail on furnishing bail in the sum of Rs. 25,000/- [Rupees Twenty Five Thousand] with one surety in the like amount on following conditions.

[i] The applicant shall appear before the Investigating Officer as and when directed by issuing notice in writing.

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

[iii] The applicant shall furnish her permanent address as well as present address and furnish the names and address of her three close relatives with their phone numbers.

[3] Failure to comply with any of the conditions of bail, the anticipatory bail granted to the applicant liable to be cancelled.

[V.L.ACHLIYA, J.]