

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD
CRIMINAL APPLICATION NO. 6285 of 2017.**

1. Ashish @ Nachiket Subhash Sonwane,
Age 18 years, Occ. Education,
R/o. Hira Gauri Park, Nimkhedi
Shivar, Jalgaon. ... Dismissed as
withdrawn.
2. Shekhar Manik Sapkale, Age 30 years,
Occ. Agriculture, R/o. Kanlada, Tq.
& District Jalgaon. ... Applicant.

VERSUS.

The State of Maharashtra
Through Police Station officer
Taluka police station, Jalgaon,
District Jalgaon. ... Respondent.

...

Advocate for the Applicants : Mr. S.S. Bora.
APP for Respondent/State : Mr. A.S. Shinde.

CORAM : V.L. ACHLIYA, J.
DATE : 30th November, 2017.

ORAL ORDER :

1. The applicants apprehending arrest in connection with Crime No. 111/2017 registered at Taluka Police Station Jalgaon, District Jalgaon, for the offences punishable under sections 306, 323, 336, 337, 354, 504, 506, 509, 143, 147, 149 read with section 34 of the Indian penal Code, have preferred this application

seeking anticipatory bail. However during the course of hearing the application withdrawn to the extent of applicant No. 1. Thus the present application is prosecuted to the extent of applicant No.2.

2. Heard learned counsel for the applicant No. 2 and the learned APP for the respondents/State. Perused the papers of investigation.

3. Learned counsel for the applicant strenuously contended that even if the entire allegations made in the first information report, accepted as true and correct still no offences under section 306, 354 as well as 509 of the Indian Penal Code are attracted against the applicant No.2. It is pointed out that as per the narration of the incident by the informant, on the day of incident at about 8.15 p.m. while the applicant No. 2 was passing from the road the father of the deceased girl told that his nephew Ashish (accused No. 1) has given threat to his son Sagar and asked to give him proper understanding. At that time accused No. 1 Ashish came from his house and started abusing the informant and threatened to kill his son Sagar. Thereafter members of the family of applicants as well as informant came there and there was exchange of words

in between them. In the course of incident the wife of the informant was pushed on the ground and co-accused Rekhabai sat on her chest. Ashwini was also pushed on the ground by co-accused Usha and she too sat on her chest. Co-accused Manisha pushed Jagruti on the ground and she too sat on her chest. It is further alleged that accused No. 1 Ashish used insulting words to deceased Nilima and also assaulted her, sat on her chest and outraged her modesty, which leads her to commit suicide. In the light of allegations made in the first information report the learned counsel submits that the allegations of outraging modesty are made against accused no. 1 Ashish, which leads the deceased Nilima to commit suicide. It is pointed out that in the first information report only allegation made against the applicant is that he has pelted some brick stones. No corresponding injury was found to be caused to any one on account of pelting of stones. In this background, learned counsel for applicant submits that the applicant deserves to be released on anticipatory bail, as otherwise he will be arrested and humiliated for no offences committed on his part.

4. Learned APP has fairly conceded that there is no act attributed to applicant No. 2 in commission of

act of outraging modesty of any of women or commission of suicide by deceased.

5. It is apparent from the first information report that the incident was not premeditated. The applicant was passing in front of house of informant. Informant called him to complain about the act of his nephew i.e. applicant No. 1 Ashish. Suddenly the accused No. 1 came and started abusing and threatening the informant, which leads to quarrel between members of family of informant and accused. In the entire incident no act has been attributed against the applicant except pelting some brick stones towards the members of the family of informant. In this view, no prima-facie offence of outraging the modesty as well as the act of abetting the commission of suicide attracted against the applicant No. 2. I am, therefore, inclined to allow the application. Hence, the following order is passed.

ORDER.

1. Application is partly allowed to the extent of applicant No. 2 Shekhar Manik Sapkale.
2. Application filed by applicant No. 1 Ashish @ Nachiket Subhash Sonwane is dismissed as withdrawn.

3. In the event of arrest of applicant No. 2 Shekhar Manik Sapkale, in connection with Crime No. 111/2017 registered at Taluka Police Station Jalgaon, District Jalgaon, for the offences punishable under sections 306, 323, 336, 337, 354, 504, 506, 509, 143, 147, 149 read with section 34 of the Indian penal Code, the applicant No. 2 be released on his furnishing bail in the sum of Rs. 15,000/- with one surety in the like amount, on following conditions.

- (i) Applicant shall appear before the investigating officer as and when directed by the investigating officer.
- (ii) Applicant shall not indulge into any act amounting to tampering the prosecution witnesses.

6. Criminal application stands disposed of in above terms.

(V.L.ACHLIYA, J.)

mkd/-