

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 468 OF 2017

Shri Balasaheb Jagannath Dhomase

...Applicant

Versus

State of Maharashtra

...Respondent

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Mr.Sugandh B. Deshmukh for the Applicant.

Mr.Sooraj S.Hulke, APP for the State-Respondent.

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CORAM : MRS.MRIDULA BHATKAR, J.

DATE : MARCH 20, 2017

P.C.:

1. This application for pre-arrest bail is moved by the applicant-accused as the applicant-accused apprehends arrest in C.R.No. 22 of 2017 registered with Niphad Police Station, Nashik for the offences punishable under sections 504, 506 and 306 of the Indian Penal Code. Out of that, section 306 is non bailable. The offence is registered at the instance of Smt.Aruna Raviraj Wagh on 5th March 2017.

2. It is the case of the complainant that her husband the deceased Raviraj Wagh was working as middleman between trader Tarik and agriculturists at Niphad and other villages during the grape season. On 2nd March 2017 at around 7.00 a.m., when her husband, the deceased

Raviraj came home, he enquired about children and again went out. He did not return home at that night. On 3rd March 2017, in the morning, she went to the office of the trader and at that time her husband and one Tarik were distributing money to the grape farmers. She had information that her husband was beaten up by the applicant-accused. Therefore, she pulled his shirt up and noticed the injury marks on his waist, back, legs and face. She saw that those entire colour injuries were blue and black. The deceased Raviraj told her that the applicant-accused has called him on 2nd March 2017 to collect the cheque. However, the applicant-accused did not return the cheque, but he assaulted her husband with iron pipe. The deceased Raviraj told her that he wanted to make the payment to the farmers and he did not come home on that day. On 4th March 2017, her husband came home and again he did not return home in the afternoon, but on telephone at around 4.00 p.m. the deceased Raviraj told her that the applicant-accused used to threat him and he talked with his children and thereafter he has committed suicide on that day by consuming poisonous substance and he died. Therefore, she lodged a complaint on 6th March 2017 against the applicant-accused. After the death of the deceased Raviraj, the offence was registered at C.R. No. 24 of 2017 on 6th March 2017.

3. The learned counsel for the applicant-accused has submitted that the applicant-accused has not committed any offence under section 306 of the Indian Penal Code. There is no such evidence on record. There was financial transaction and dispute between the applicant-accused and Tarik. However, the applicant-accused had no intention or mens rea that the deceased Raviraj to commit suicide. He has further submitted that the applicant-accused is a farmer and has no criminal record.

4. The learned APP opposed this application. He relied on the complaint, post mortem report and also the statement of other witnesses especially the statement of Tarik. The learned APP further submits that the medical officer has mentioned the injuries of the deceased Raviraj at the time of conducting the post mortem. He further submits that the applicant-accused has assaulted the deceased Raviraj and pursuant to which the complainant has lodged a complaint against the applicant-accused.

5. Perused the F.I.R, post mortem report, statements of the witnesses and other documents. It is unfortunate death of the deceased Raviraj. The death of the deceased is out of financial transaction. From the F.I.R., it is found that the complainant has seen the injuries on the body of the deceased. On 2nd March 2017, she was informed by the deceased

Raviraj that the applicant-accused has assaulted him. There may be threats given to the deceased by the applicant-accused. *Prima facie*, it appears that the deceased has committed suicide because of the pressure, which he has suffered due to the assault and the demand of money at the hands of the applicant-accused. However, *prima facie*, to bring the offence under section 306 of the Indian Penal Code, it is necessary to see whether the ingredients under section 107 of the Indian Penal Code are present in the commission of offence or not. After considering the facts of the F.I.R. and also the statement of Tarik and the post mortem report, *prima facie*, it appears that mens rea or facilitation cannot be attributed to the applicant-accused. There is no other case pending against the applicant-accused. However, the present case is under sections 306, 504 and 506 read with 34 of the Indian Penal Code. Thus, the offence committed under sections 504 and 506 are bailable. Hence, I grant pre-arrest bail to the applicant-accused on the following conditions:

ORDER

- a) In the event of arrest, the applicant-accused shall be released on bail upon furnishing P.R. Bond in a sum of Rs. 30,000/- with one or two solvent sureties in the like amount.
- b) The applicant-accused shall cooperate with the Investigating Officer and attend the concerned police station on

every Saturday between 11.00 a.m. and 2.00 p.m., till 30th April 2017.

c) The applicant-accused shall not harass or pressurise the complainant and other family members.

d) The applicant-accused shall not tamper with the evidence and shall not indulge into any criminal activity.

e) The applicant-accused shall not abscond or leave India without prior permission of the Court and furnish his permanent address to the Investigating Officer alongwith documentary proof of his address.

f) In the event of breach of any of the above conditions, the prosecution will be at liberty to move the Court for cancellation of bail.

6. Anticipatory Bail Application is disposed of in the above terms.

(MRIDULA BHATKAR J.)