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***IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION***

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.553 OF 2017

1. Savitakaur@Palak Rajusingh Dudhani
2. Udaysingh Rajusingh Dudhani
3. Malkhesingh Rajusingh Dudhani ...Applicants

Versus
The State of Maharashtra ...Respondent

Mr.V.B.Shivarkar, for the Applicants.

Ms.Rutuja Ambekar, A.P.P. for the Respondent-State

Mr.Debajyoti Talukdar, for the Original Complainant.

CORAM : REVATI MOHITE DERE, J.

DATE : 3rd APRIL, 2017

P.C. :

1. Heard learned counsel for the applicants, learned APP for the Respondent – State and the learned counsel for the original complainant.

2. By this application, the applicants seek pre-arrest bail in connection with C.R.No.37 of 2017 registered with the Market Yard Police

Station, Pune for the alleged offence punishable under Section 306 r/w 34 of the Indian Penal Code.

3. Learned Counsel for the applicants states that the applicants are innocent and are not connected with the alleged offence. He submitted that the video recording of the statement of the deceased-Krushnasingh Dudhani, before committing suicide, does not disclose an offence punishable under Section 306 of the Indian Penal Code, qua the applicants.

4. Learned A.P.P. and the learned counsel for the original complainant vehemently opposed the application. They submitted that all the applicants have antecedents. They submitted that the deceased committed suicide because the applicants were blackmailing him.

5. Perused the papers in particular the transcript of the statement of the deceased recorded by the deceased himself. The incident is extremely unfortunate. It appears that the deceased was arrested in connection with C.R.No.507 of 2016 registered with the Kondwa Police

Station, pursuant to the complaint lodged by the applicant no.1, alleging offences punishable under Sections 376, 417, 325, 506(2), 504 of the Indian Penal Code. The deceased was enlarged on bail in the said C.R. on 16th February, 2017. On 19th February, 2017, deceased committed suicide and before committing suicide recorded his statement on his mobile phone. A perusal of the said transcript shows that after his release on bail, his wife attempted to commit suicide by consuming poison. In his statement, the deceased has expressed his guilt; that he has neglected his wife and children and was having an affair with the applicant no.1 for about 5 years; that he felt prey to the sweet talks of applicant no.1 and neglected his family; and that his wife used to threaten to commit suicide but he never thought that she would seriously commit suicide. The deceased had further disclosed that he had learnt that applicant no.1 was a professional call girl and when he realized the same, she started blackmailing him and that all the applicants would demand money from him and later a complaint under Section 376 of the Indian Penal Code was lodged, against him. He has further disclosed that after he was enlarged on bail, the Applicant No.1 without informing, came and met him, which fact was learnt by his wife, pursuant to which, his wife went into depression and there was a quarrel

between them; that in the quarrel he even raised his hand on his wife; and that because of his mistake his wife consumed poison. He has further disclosed that he could not live without his wife and that when his wife committed suicide, it was a big victory for the applicant no.1. According to the deceased, the applicant no.1 would ask him to leave his wife, however, he could not live without his wife. He has disclosed that his wife was lying on the death bed and that he was responsible for the same; and that all the applicants are responsible for him and his wife committing suicide. He has expressed his forgiveness in the said statement and stated that if his wife survives, it would be good. He has further disclosed that after seeing his statement, recorded on his mobile phone, some enquiry may also be made against the applicants and that was his last wish. It appears that when the deceased committed suicide, his wife was critically ill and was in the hospital. A perusal of the transcript of the deceased's statement shows that to a great extent that he was guilty of having ignored his wife and children and for having spent time with the applicant no.1. Although, there are a few sentences that the applicants were blackmailing him nothing was placed on record by the prosecutor, i.e. CDR records etc.

6. Without going into the fact; whether an offence is disclosed or not, the applicants in the facts, deserve to be granted pre-arrest bail. No doubt there are antecedents, qua the applicants, though not similar, but it also appears that there are antecedents against the deceased. Accordingly, the application is allowed and the applicants are granted pre-arrest bail on the following terms and conditions :-

ORDER

- i) In the event of arrest, the Applicants be enlarged on bail on furnishing P.R.Bond in the sum of Rs.50,000/- each with one or two local sureties in the like amount;
- ii) The Applicants shall attend the concerned Police Station, initially on every Monday, between 10:00 a.m. to 12:00 noon, till the filing of the charge sheet and thereafter on the first Monday of every month, between 10:00 a.m. to 12:00 noon, till the conclusion of the trial;
- iii) The Applicants shall inform their latest place of residence and mobile contact number immediately and/or change of residence or mobile details, if any, from time to time to the trial Court as well as to the concerned Police Station, in writing;

- iv) The Applicants shall not enter the jurisdiction of Market Yard Police Station, except for attending the concerned Police Station as per clause (ii) above ;
- v) The Applicants shall not tamper or attempt to influence the complainant or any persons concerned with the case;
- vi) The Applicants shall not leave the country, without the permission of the trial Court ;
- vii) The Applicants shall co-operate in the conduct of the trial.

7. The Application is allowed and disposed of in above terms.

8. It is made clear, that the observations made herein, are prima-facie, for the purpose of deciding this application and the learned Judge shall decide the case on its own merits uninfluenced by the observations made in this order.

9. Learned Counsel for the applicants states that he will not apply for modification of any of the aforesaid conditions, till the conclusion of the trial, except for extraordinary reason.

10. All concerned to act on the authenticated copy of this order.

(REVATI MOHITE DERE, J.)