

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1057 OF 2017

Sachin Ghanshyam Tiwari

...Applicant

Versus

The State of Maharashtra

...Respondent

Mr. Niranjan Mundargi i/b Omneel A.Jadhav for the applicant
Ms.P.N.Dabholkar, APP for the State.

CORAM: A.M. BADAR, J.

DATED: 12th OCTOBER, 2017

PC:-

1. The applicant/ accused in Crime No.I-105 of 2017 for the offence punishable under Section 306 of the Indian Penal Code registered with police station Bhoisar, Palghar at the instance of Sonadevi Yadav is seeking his pre-arrest bail.

2. The learned advocate appearing for the applicant/accused drew my attention to the First Information Report lodged on 23.05.2017 in respect of the incident of commission of suicide which took place on 22.1.2017 and

submitted that the same is not reflecting commission of the Crime which is alleged against the present applicant.

3. The learned APP opposed the application by contending that mother of the deceased had checked the memory card which was given to her by the deceased. It was found to be containing photographs of the deceased with the present applicant. The purse of the deceased was found to be containing contraceptive pills. The learned APP argued that call details record shows that several calls were exchanged between the deceased and the present applicant. The applicant has tried to shift the burden of his guilt on some other person but the statement of that person shows that there was love relations between the deceased and the present applicant.

4. I have carefully considered the rival submissions and also perused the case diary. The young lady named Sheetal committed suicide by jumping before the train on 22.01.2017.

Her mother Sonadevi lodged FIR against the present applicant on 23.05.2017. It is alleged in the FIR that the deceased had given memory card to the first informant for keeping it in the safe custody. When it was checked, it was found to be containing photographs of the deceased with the present applicant. Purse of the deceased was found to be containing contraceptive pills .

5. Perusal of the statement of witnesses goes to show that there was love relation between the deceased and the present applicant. The deceased committed suicide on 22.1.2017 and therefore, the applicant is made an accused in the offence punishable under Section 306 of the Indian Penal Code.

6. The question, at the trial will be whether, the applicant had abetted commission of suicide by the deceased. In order to prove this offence, the prosecution is required to be established that there was instigation, provocation, incitement or an encouragement by the applicant to the deceased to

commit suicide. The prosecution is required to show that there was some active suggestions or stimulation by the accused to the victim to commit an act of an offence. Mere having love relations and sexual relations with the deceased will not amount to instigating the deceased to commit suicide. Something more will be required.

7. Considering this nature of evidence available against the present applicant, the following order by holding that his custodial interrogation is not warranted.

ORDER.

- (i) The application is allowed.
- (ii) Order dated 21 June, 2017 is confirmed. The applicant/accused in crime No.I-105 of 2017 registered with Police Station Bhoisar, Palghar in the event of his arrest is directed to be released on bail on executing PR bond of Rs. 15,000/- and on furnishing surety in the like amount.

(iii) As a condition of this order the applicant to report the concern police station as and when required by the investigators and that to on service of written intimation.

(iv) He shall not tamper with the prosecution evidence.

(v) The applicant / accused shall not directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case, so as to dissuade him from disclosing such facts to the court or to the Police Officer.

(vi) The application stands disposed of accordingly.

(A.M. BADAR, J)