

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO. 1774 OF 2016

Asmit Sameer Das.	... Applicant.
Versus	
The State of Maharashtra.	... Respondent.

Mr. Viresh V. Purwant, advocate for Applicant.

Mr. Umesh R. Mankapure, advocate for intervenor.

Mr. Ajay Patil, APP for State.

**CORAM : SMT. SADHANA S. JADHAV, J
DATE : MARCH 9, 2017**

P.C.:

1 Heard the learned Counsel for the applicant and the learned APP for State. Perused the papers.

2 This is an application under section 438 of the Code of Criminal Procedure, 1973. The applicant herein is apprehending his arrest in Crime No. 143 of 2016 registered with Shivaji Nagar Police Station for offence punishable under section 306 of the Indian Penal Code.

3 By an order dated 13th October, 2016 the applicant was granted interim protection upon imposing certain conditions. It is not the case of the prosecution that the applicant has committed breach of any condition.

4 It appears from the record that the applicant had intimate relations with the deceased. There was no objection from the parents and they were aware of the fact that there are intimate relations between the applicant and the deceased Deepa. The dead body of Deepa was found on railway track. Her mother has lodged first information report alleging therein that on 25th March, 2016 she wanted to visit her brother's friend Dr. Manisha. Her mother had objected. Thereafter, Deepa had made excuse to meet computer teacher Sangita. Her mother had permitted her to go. At about 5 p.m. she again wanted to leave the house and upon enquiry she had disclosed that she was going to meet her friend Supriya. She adorned the wrist watch gifted by the applicant on the occasion of her

birthday. At about 2 p.m. mother of Deepa had enquired with the present applicant and he had informed that he had no conversation with her on that date. The mother had presumed that she was in the company of the present applicant. On 26th March, 2016 the applicant alongwith his friend Pournima had come to the house of the first informant and was searching something in her bed room. He had told the first informant that he does not know the whereabouts of Deepa and while leaving the house he told her that scooty of Deepa was parked in front of his house and that they should take it away. Thereafter, he had returned scooty. On 27th March, 2016 at about 8 p.m. the police of Shivaji Nagar Police station informed the first informant that the dead body of Deepa was found at railway track. According to first informant, Deepa had committed suicide since the applicant refused to marry her.

5 The learned Counsel for the applicant submits that the refusal to marry would not amount to abetment, instigation or facilitation to commit suicide and hence, the applicant deserves to be protected.

6 According to the learned Counsel for the intervenor, the first informant is suspicious about the death of Deepa and has filed several applications to State to enquire into the same. It may take its own course.

7 Perused the messages exchanged between the applicant and the complainant. Perused her status on the social media some time before her death. On 21st March she had sent message that applicant had saved her from committing suicide in front of train. On 21st March, he had stated that she could not stay without the present applicant. Taking the material collected in the course of investigation, it also appears that deceased was taking some medicines as she was passing through a state of depression. Be that as it may, it cannot be said that custodial interrogation of the applicant would not be imperative. Hence, in the peculiar facts of this, the applicant deserves pre-arrest bail.

8 However, the observations are prima facie and are restricted to the application under section 438 of the Code of Criminal Procedure, 1973 and shall not be considered at the time of deciding application for quashing of FIR or discharge or at the time of trial.

9 Hence, the following order is passed :

ORDER

- (i) The application is allowed.
 - (ii) In the event of arrest of the applicant in Crime No. 143/2016 registered at Shivaji Nagar Police station, he be enlarged on bail on furnishing P.R. bond in the sum of Rs. 50,000/- and one or more sureties in the like amount.
 - (iii) The applicant shall report to the concerned police station from 20/3/2017 to 26/3/2017 between 10.30 a.m. to 1 p.m. and cooperate with the investigating agency to the best of his capacity.
- 10 The application is disposed of accordingly.

(SMT. SADHANA S. JADHAV, J)