IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1896 OF 2017

Sainath Vyankatrao Mandawad …Applicant
Versus
The State of Maharashtra …Respondent

Mr. Umeshchandra Yadav for the applicant.
Mr. S.V.Gavand, APP for the State.

CORAM: A.M. BADAR, J.
DATED: 31st OCTOBER, 2017

PC:-

1. The applicant/accused in Crime No.120 of 2017 for the offence punishable under Section 306 of the India Penal Code with Uttan Sagari Marg Police Station at the instance of Sanjay Khandagale by this application is seeking pre-arrest bail.

2. Heard the learned advocate appearing for the applicant/accused. By pointing out the say given by the prosecution before the learned Additional Sessions Judge opposing the similar application, the learned advocate for the applicant argued that there is contradiction in the stand taken by the prosecution. He further argued that if the cell

phone was locked then the contention that there were four text messages sent by the deceased to the applicant is per se incorrect. The learned advocate further argued that sending text messages cannot be a reason for committing suicide. He further relied on order passed by this Court in the matter of Sachin Tiwari V. State of Maharashtra in ABA No.1057 of 2017 at 12th October, 2017 to point out that for making out the charge for the offence punishable under Section 306 of the Indian Penal Code, the prosecution is required to establish that there was instigation, provocation, incitement or encouragement by the applicant to the deceased to commit the act of suicide. Mere having love relations and sexual relations with the deceased does not amounts to instigate the deceased to commit suicide.

3. The learned APP opposed the application by contending that the deceased was merely 19 years unmarried lady taking college education and the applicant is 46 years old married person having wife and two children. Still he was taking the deceased to the resort and indulging in illicit

relations with her which ultimately resulted in commission of suicide by the deceased. The learned APP pointed out that from the CDR collected by the investigating officer, it is found that soon before the incident there was four text messages sent by the deceased to the applicant.

4. I have carefully considered the rival submissions and perused the case diary. It is seen from the case diary that deceased Sanjana Jadhav was 19 years old college going student. She committed suicide by hanging herself at her residential house on 25/09/2017. The investigator has recorded statement of several friends of the deceased. Those statement reflects that deceased Sanjana Jadhav was under the impression that the applicant is still unmarried and he wants to marry her. It is seen from those statements that the applicant was taking the deceased Sanjana to the resort. He was imposing several restrictions on deceased Sanjana. From CDR collected by the prosecution it is seen that soon before the incident of commission of suicide by Ku.Sanjana Jadhav, she had sent four text messages to the present applicant.

5. Prima facie it appears that the applicant who is an married person had enticed Ku.Sanjana Jadhav to fall in love with him and had misused the trust reposed by her by making a show that he is an unmarried person and willing to marry her. Prima facie, it appears that this conduct on the part of the applicant impelled the deceased to commit suicide and therefore, it cannot be said that at this stage the offence under Section 306 is not at all made out.

6. Considering the nature of offence and for effective investigation custodial interrogation of the present applicant is desired. As such the order.

ORDER

The application is rejected.

(A.M. BADAR, J)