

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,**  
**NAGPUR BENCH, NAGPUR**

**CRIMINAL APPLICATION (BA) NO.137 OF 2017**

**Nitin s/o Harish Mirchandani**

**..VS..**

**The State of Maharashtra, through its Police Station Officer, Police Station**  
**Ranapratap Nagar, Nagpur**

.....  
Office Notes, Office Memoranda of Coram,  
appearances, Court orders or directions  
and Registrar's orders  
.....

Court's or Judge's Order

Shri R.M. Daga, Counsel for the applicant.  
Shri N.B. Jawade, Addl.P.P. for the non-applicant.

**CORAM : P.N. DESHMUKH, J.**  
**DATED : MARCH 2, 2017.**

This is an application for bail in Crime No.297 of 2016 registered for the offences punishable under Sections 315 and 498-A read with Section 34 of the Indian Penal Code and Sections 3 and 4 of the Dowry Prohibition Act.

Heard learned counsel for the applicant and learned Additional Public Prosecutor.

It is the case of applicant that F.I.R. came to be lodged on 24.8.2016 after one month of incident alleged to have taken place on 21.7.2016 on which day it is stated that pregnancy of complainant's daughter was terminated. Learned counsel for the applicant has invited to certain dates being date of registration of offence on 24.8.2016 and date of abortion of victim girl on 21.7.2016 on which day she left house of applicant

and on 25.7.2016 attempted to commit suicide by hanging due to which she sustained severe injuries for which admittedly she is even on the day under medical treatment as has suffered to have sustained brain stroke.

Learned counsel for the applicant has also referred to documents filed in support of application being money receipts to establish that applicant had spent huge amount at the time of his marriage as well as on family functions and has also referred to certain photographs and post posted by victim girl on the face-book, was after her abortion on 21.7.2016 to establish that relations between applicant and victim girl were throughout cordial till she attempted to commit suicide on 25.7.2016. It is also demonstrated as to how applicant in fact after incident on 25.7.2016, apprehending his false involvement had already informed said fact to the police and to the Commissioner of Police, Nagpur by his letter and in fact had also requested for fair investigation. Lastly, it is contended that though allegations in F.I.R. are similar against applicant and co-accused being his relatives, they are released on anticipatory bail by the Trial Court. However, in spite of applicant having been involved in similar set of facts, his application for regular bail his rejected. It is submitted that from the contents of report lodged by father of victim, as there is nothing to

separate case of applicant from co-accused, it is prayed that application be allowed by imposing the suitable conditions.

Learned Additional Public Prosecutor opposed the application as per its reply on record and has contended that, serious injuries are suffered by victim girl though as an outcome of her attempt to commit suicide by hanging in bathroom, cause of her committing such act is directly related to continuous ill-treatment provided to her by applicant and his family members. It is also submitted that applicant married with victim girl by suppressing his earlier marriage which was also one of the reasons which compelled victim girl to commit suicide. It is also contended that applicant is a criminal element as even prior to registration of crime under consideration he is involved in two other crimes being Crime No.137 of 2015 registered for the offences punishable under Sections 354(b)(d), 394, 323, and 294 of the Indian Penal Code and Crime No.159 of 2006 registered for the offences punishable under Sections 364 and 34 of the Indian Penal Code, both registered by local police at Nagpur. Though, according to the say of prosecution, applicant has indulged into love affairs with some girl, learned Additional Public Prosecutor, however on instructions, makes a statement that till today there is no evidence collected to establish said fact.

In the background of submissions advanced as aforesaid, it reveals from report dated 24.8.2016 lodged by father of victim girl that after her marriage with applicant, she was happily staying for a period of 15 days, which took place on 13.12.2015. However, thereafter on 21.2.2016 she came to complainant and informed that she was left at her father's place by applicant and started crying when on a query made by complainant she informed that applicant and his mother assaulted her as they never wanted her to give birth to a child and were thus, insisting her go for abortion, however since it was her first pregnancy she never wanted to terminate the same, but applicant and his mother since continuously caused her beating and as on that day gave push while she was in kitchen, she sustained pain in her abdomen. On learning about facts as aforesaid, complainant immediately took her to hospital where her pregnancy was required to be terminated on medical grounds. After this incident of 21.2.2016, she stayed with her father for eight days and thereafter went to applicant as was taken back by him saying that henceforth, would not indulge in such activities. As per report, it further reveals that thereafter, as alleged to be demanded by applicant, she informed her father, to arrange for money to be paid to him as he intends to do some business, accordingly 4 to 5 days thereafter, complainant on obtaining hand loan

of Rs.5.00 lacs from his friend Rathan Banson paid to applicant. It further reveals that complainant thereafter, on his own thinking that there would be change in applicant's behaviour and attitude towards victim, on his own gave him Rs.3.00 lacs to do some business which amount is alleged to be spent by him.

From further contents of report, on 21.7.2016 victim's birthday was celebrated at the house of applicant where he was not present, and is alleged to have returned late in the night under the influence of liquor, due to which victim girl along with her parents came to her parental home and stayed there for three days. Lastly, it is stated in the report that for the same reason, two sisters of applicant residing at Shivani and Bhopal whenever used to visit Nagpur, provided ill-treatment to her by beating her. Thus, it is contended that since her marriage with applicant in December 2015, till 21.7.2016 as she was continuously ill-treated, she attempted to commit suicide.

Considering contents of report as aforesaid, it is material to note that in report itself complainant has stated that her pregnancy was terminated as she used to remain under depression. In fact, according to its contents, this fact is stated by the doctor concerned to applicant. In view of contents of report as aforesaid, case of complainant of alleged abortion due to abdominal pain sustained by her due to alleged push

given to her by applicant and his mother on 21.2.2016 in kitchen, does not appear to be convincing. Moreover, though it is also one of the grounds mentioned in the report that amount of Rs.5.00 lacs was paid on obtaining hand load from Ratan Bansod, there is nothing to substantiate said fact, in fact while further contents of report it is found that amount of Rs.3.00 lacs was thereafter paid by complainant to applicant on his own for business purpose considering that he would improve and start some business. Admittedly, attempt to commit suicide on 25.7.2016 is in the house of complainant. On perusal of complaint, co-accused being mother of applicant and his sisters as well as their respective husbands are admittedly residing in different States, allegations levelled against these five co-accused and applicant are similar. From the order of learned Trial Court granting anticipatory to co-accused it is found that considering said allegations, learned Trial Court held that there is no necessity of custodial interrogation of co-accused. In the background of observations of the order of the Trial Court when contents of report are again considered with reference to incident of abortion required to be carried out, it is seen that allegations against applicant as well as his mother Rupa Mirchandani are similar to the effect that on 21.2.2016 or thereafter victim was subjected to assault by them as they never wanted her to deliver

child while she wanted to have a child. Allegations against applicant and co-accused Rupa, are further similar to the effect that applicant and his mother therefor gave push to victim girl in the kitchen room due to which she fell down and started abdominal pain. In view of allegations levelled against applicant as well as co-accused as aforesaid, his case cannot be said to be on different footings than co-accused Rupa who is granted bail.

Applicant in support of his case though has placed on record copies of money receipts of the period from October to December 2015 valued for Rs.3,75,000/- and as alleged that these expenses were made by applicant in his marriage, these receipts by itself do not establish for what purpose this amount was paid. However, on considering documents on record filed by applicant in support of his application, it is material to note that by this letter applicant has informed to police that after attempt to commit suicide was made by his wife, he from 24.7.2016 is unable to contact her on phone though from 21.7.2016 to 24.7.2016 he was in contact with her by sending text messages and on 26.7.2016 complainant informed applicant that applicant's wife condition was serious and she was admitted in the Mayo Hospital where he was not allowed to meet her where from she was shifted to some other hospital and it is only from the friends he

learnt that she had attempted to commit suicide on 25.7.2016 and thus, apprehending his false involvement in this incident immediately on getting knowledge of this fact lodged report to the Commissioner of Police Nagpur with copy thereof to the local police station. In fact, on 1.8.2016 applicant by further entering into correspondence with police had requested for conducting fair and proper investigation relating to incident dated 25.7.2016.

Similarly, perusal of documents filed with the application in the form of copies of post, posted by victim girl on the face-book reveals that in fact even after 21.2.2016 she had continued posting such posts expressing her love with applicant which suggests that in spite of having abortion, relationship between applicant and his wife were cordial. In fact, from some of the face-book posts of victim girl which are dated 26.2.2016 that is about four days after her termination of pregnancy, she is *prima facie* found happy in the company of applicant.

In view of facts as aforesaid and as out of two crimes registered against applicant earlier in Crime No.159 of 2006 A-summary is stated to be filed, application is liable to be allowed by imposing suitable conditions. Hence, the following order:

Applicant shall be released on bail on his executing P.R. Bond in the sum of Rs.25,000/- with one

surety in the like amount.

While on bail, applicant shall mark his presence with Ranapratap Nagar Police Station, Nagpur as and when called for a period of two weeks and thereafter of 1<sup>st</sup> and 15<sup>th</sup> day of each such month, till filing of charge-sheet.

Criminal application stands disposed of accordingly.

**JUDGE**

!! BRW !!

**C E R T I F I C A T E**

I certify that this Order/Judgment uploaded is a true and correct copy of original signed Order.

Uploaded by : Bhushan R.Wankhede.  
(Personal Assistant)

Uploaded on :- 7/3/2017