

IN THE HIGH COURT OF JUDICATURE AT BOMBAY**CRIMINAL APPELLATE JURISDICTION****ANTICIPATORY BAIL APPLICATION NO. 25 OF 2018**

1 Mrs. Sunita Krishnadev Mane.
2 Krishnadev Bodhal Mane. ... Applicants.
Versus
The State of Maharashtra. ... Respondent.

WITH
ANTICIPATORY BAIL APPLICATION NO. 27 OF 2018

Ashok @ Bala Vasant Bansode. ... Applicant.
Versus
The State of Maharashtra. ... Respondent.

Mr. Priyal G. Sarda, advocate for applicants.

Mr. N.B. Patil, APP for State in ABA 25/18.

Mr. S.H. Yadav, APP for State in ABA 27/18.

Mr. Walke, PSI, Mundhwa Police Station, Pune.

CORAM : SMT.SADHANA S. JADHAV,J
DATE : JANUARY 9, 2018

P.C.:

1 Heard the learned Counsel for the applicants and the learned
APP for State.

2 These are applications under section 438 of the Code of Criminal Procedure, 1973. The applicants herein are apprehending their arrest in Crime No. 338 of 2017 registered with Mundhwa Police Station, Pune City for offence punishable under section 306, 323, 504, read with section 34 of the Indian Penal Code.

3 The applicants in Criminal Anticipatory Bail Application No. 25/2018 happen to be parents of one Sagar Mane. It is the case of the prosecution that on 17/12/2017 one Deepali Uke was admitted in the hospital with history of burn injury. Since it was a medico legal case, her statement was recorded in Sassoon hospital, wherein she had disclosed that she was in love with Sagar for almost two years. Sagar had got married to some other girl on 4/12/2017, which had enraged her. She had enquired with Sagar about the same. It is alleged that in reaction to her enquiry, Sagar had assaulted her. Thereafter, parents of Sagar had made frail attempt to convince the injured that since Sagar is already married to a third person, she

should forget Sagar and lead her own life happily by getting married with some one else.

4 The applicant in Criminal Anticipatory Bail Application No. 27 of 2017 happens to be driver of Sagar. It was alleged that on 12/12/2017 in the afternoon at about 12.30 p.m. the applicant had abused the injured on a public road i.e. at Mundhwa Bus stop. That he had also assaulted her alongwith Sagar. Being enraged by the same, she had gone to HP Petrol Pump and purchased one liter of petrol. Thereafter, she had returned home, poured petrol on herself and set her on ablaze. On the basis of her statement, Crime No. 338/17 is registered.

5 As far as the applicants in Criminal Anticipatory Bail Application No. 25 of 2018 is concerned, it cannot be said that they were responsible for the suicidal death of Deepali. It cannot be said that they had abetted, facilitated or instigated her to commit suicide. In

fact, the applicants had advised her to forget their son and lead an independent life.

6 As far as the applicant Ashok Bansode is concerned, learned APP submits that it was the applicant who had abused Deepali and had assaulted her on public road and that she could not take the insult any more. Therefore, she was driven to commit suicide and hence, the applicant does not deserve to be granted discretionary relief under section 438 of the Code of Criminal Procedure, 1973.

7 It is true that there are allegations in the dying declaration of Deepali to the extent that Bala Bansode had assaulted her on public road. However, it could only be an altercation. The victim had reacted gravely. It therefore, cannot be said that he had any knowledge that his act would drive her to commit suicide. It is in these circumstances that the applicants deserves grant of pre-arrest bail for the reasons stated hereinabove.

8 However, it is made clear that the observation made hereinabove are restricted to the application under section 438 of the Code of Criminal Procedure, 1973. The learned trial court shall not be influenced by the same at the time of deciding the application for discharge or quashing of FIR or at the time of trial.

9 Hence, following order is passed.

ORDER

- (i) The applications are allowed.

- (ii) In the event of arrest in C.R. No. 338 of 2017 registered at Mundhwa Police Station, Pune, the applicants be enlarged on bail on furnishing P.R. bond in the sum of Rs. 25,000/- each and one or more solvent sureties in the like amount.

- (iii) The applicant Ashok Bansode shall report to Mundhwa Police Station on every Sunday from 10.30 a.m. to 1 p.m. till filing of the

charge-sheet and cooperate with the investigating agency to the best of his capacity.

10 The applications are disposed of accordingly.

(SMT. SADHANA S. JADHAV,J)