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

**ANTICIPATORY BAIL APPLICATION NO. 1735 OF 2017**

Shyam Nipunge

**... Applicant**

**V/s.**

The State of Maharashtra

**... Respondent**

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Mr.Ashok Mundargi, Senior advocate i/b. Mr.S.B. Shetye for the Applicant.  
Mr.S.S. Holke, APP for the Respondent/State.

**CORAM : A.S.GADKARI, J.**

**DATE : 2<sup>nd</sup> FEBRUARY 2018.**

**P.C.:**

- 1] This application is under section 438 of Cr.P.C for pre-arrest bail in CR No.I-290 of 2017 dated 7<sup>th</sup> September, 2017 under section 306 r/w. 34 of IPC registered with Kalwa Police Station, District Thane.
- 2] Heard learned Senior Counsel appearing for the applicant and the learned APP for the State. Perused the record of investigation.
- 3] The name of the deceased is Miss Subhadra V. Pawar. The date of the incident is 6<sup>th</sup> September, 2017. The FIR is lodged by Shri Sujeet V. Pawar, the elder brother of deceased Miss Subhadra Pawar. It is stated that the

deceased was employed as a woman police constable with Thane City Police. That Miss Subhadra was having a love affair with Amol D. Phapale (accused no.1) for last five years and the said fact was known to her family members. Amol D. Phapale is a resident of the same village as that of the informant. That in April, 2016, the family members decided to perform the marriage of deceased Subhadra with Amol Phapale and therefore Amol Phapale was in contact with Ms.Subhadra regularly. That on 6<sup>th</sup> September, 2017, at 1.45 pm Amol Phapale gave a phone call from his mobile phone on the mobile phone of the informant and told him to come at Thane immediately as Ms.Subhadra had committed suicide. The informant, therefore, rushed to the spot whereupon it was informed to him by Amol Phapale that he is at Kalwa Police Station. When the informant asked about what had happened, Amol Phapale told him that on 6<sup>th</sup> September, 2017 at about 11.00 a.m., he had been to the house of Miss Subhadra for lunch and when they were having lunch Miss Subhadra was receiving constant phone calls on her mobile and when he asked her about the said phone calls. Miss Subhadra started crying and informed Amol that ACP Nipunge (Applicant) is constantly giving her phone calls and is stating that he will do setting of her duty and was calling her to meet him. At that

time the applicant met the informant on road and told the informant that they will talk outside the house on that. The informant and Amol Phapale and the applicant thereafter went near the residential room of Miss Subhadra, and noticed that Miss Subhadra has committed suicide by hanging to the ceiling fan with her scarf (dupatta / odhani). The applicant, thereafter, fled away from the said spot without informing anybody.

The FIR has categorically spelt out about the constant harassment by the applicant. That the applicant used to call Miss Subhadra constantly on her phone and mentally tortured her due to which she committed suicide. The first informant has further stated that, at the time and date of the incident, Amol Phapale was with Miss Subhadra Pawar and at that time due to the constant phone calls given by the applicant, it created doubt in the mind of Amol Phapale and due to which altercations took place between them and therefore Miss Subhadra might have committed suicide. In the premise, the FIR is lodged.

4] Mr. Mundargi, the learned Senior Counsel appearing for the applicant submitted that, the applicant has nothing to do with the present crime. That the applicant has no knowledge as to what had happened in between deceased and accused no.1 – Amol Phapale. He further submitted that

there is no evidence of abetment of the present crime by the applicant and therefore the custodial interrogation of the applicant is not necessary. He further submitted that the applicant is ready and willing to cooperate with the investigating agency and therefore his custodial interrogation may be avoided. He submitted that, the applicant is a government servant and prayed he may be granted pre-arrest bail.

5] Per contra, the learned APP vehemently opposed the present application and submitted that the Investigating Officer has filed affidavit dated 16<sup>th</sup> November 2017 in opposition of the present application and has placed the relevant facts on record. He submitted that due to the harassment at the hands of applicant, the deceased was left with no other alternative than to put an end to her life. He therefore prayed that the present application may be rejected.

6] The record indicates that the police have recorded statement of the friend of the deceased Ms.Subhadra, and it is stated that the applicant had given lift by his four wheeler vehicle to the deceased along with her friend and during the said travel the applicant had taken the mobile number of the deceased Subhadra Pawar. The record of investigation reveals that during the period from 17<sup>th</sup> July, 2017 to 6<sup>th</sup> September, 2017 the applicant

had made 148 phone calls from his mobile to the deceased Miss Subhadra Pawar on her mobile phone and has also sent 8 messages to her. That on the date of incident the deceased Subhadra Pawar has received phone calls at around 12.05 and 15.36 hours from the applicant. Till today, there is no explanation on behalf of the applicant has come forward as to why he made such a large number of phone calls to the deceased, so also why he gave calls to the deceased on the date of the incident. The FIR is eloquent on the point that the applicant used to give phone calls to the deceased on the pretext of setting her duty and used to call her to meet him by giving repeated phone calls. That on the date of incident also the applicant gave calls to the deceased Subhadra Pawar.

It appears from the record that, due to the said repeated phone calls received by Miss Subhadra (deceased), there was a quarrel between Miss Subhadra and her fiancée Mr. Amol Phapale (accused no.1). That being fed up with constant harassment at the hands of the applicant, Miss Subhadra Pawar committed suicide between 2.30 p.m. to 3.00 p.m. on 6<sup>th</sup> September, 2017 at her residential premises by hanging.

The record further indicates that there is no explanation offered by the applicant as to why he visited the house of the deceased on the date of

the incident and after noticing the dead body of Miss Subhadra Pawar, he fled away from the scene of the offence. Thus, after perusing the record, it *prima facie* appears that the applicant has caused abetment to commit suicide to deceased Ms.Subhadra. It is due to the constant harassment and mental torture by the applicant, Miss Subhadra Pawar was left with no other alternative than to end her life.

7] After taking into consideration, the serious allegations against the applicant and the gravity of the offence, this Court is of the view that the applicant does not deserve to be protected by pre-arrest bail.

8] Application is accordingly rejected.

**(A.S.GADKARI, J.)**