

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO. 2016 OF 2018
with
APPP/1211/2018 IN ABA/2016/2018

Javed Sultan Shaikh

..Applicant

v/s.

The State of Maharashtra .

..Respondents

Mr. Anil Lalla for the Applicant.

Mr. S. S. Pednekar, APP for the State.

CORAM : ANUJA PRABHUDESSAI,J.

DATED : OCTOBER 24, 2018.

P.C.

1. This is an application under Section 438 Cr.P.C. filed by the aforesaid applicant apprehending his arrest in C.R.No.395 of 2018 registered with Chatrshringi Police Station, Pune for offences under Section 306 r/w. 34 of IPC.

2. Heard Mr. Lalla, the learned Counsel for the applicant and Shri Pednekar, the learned APP for the State. I have perused the records and considered the submissions advanced by the learned Counsel for the respective parties .

3. A perusal of the record prima facie reveals that Afrin, cousin of

the applicant had committed suicide on 16th May, 2018. The father of said Afrin had lodged the FIR against Afzal, the husband of Afrin and his other family members, pursuant to which Crime No. 223 of 2018 came to be registered against them for offences under Section 498A and 304B r/w. 34 of IPC. The records prima facie reveal that said Afzal and his family members were arrested by the police in the said crime. Said Afzal was released on 24th July, 2018 and he committed suicide on 29th August, 2018. The first informant Sharif Mehboob Shaikh has lodged FIR against the present applicant and his family members for abetting suicide of Afzal.

4. It is the case of the prosecution that the applicant and his brother Javed and cousin Kalim had demanded Rs.50 lakhs from Afzal for settling the earlier case. It is alleged that the applicant and his brother and cousin were constantly pressurizing Afzal to pay the said amount. It is alleged that Afzal committed suicide on 29th August, 2018 because of the pressure and harassment by the applicant and others. The suicide note allegedly written by Afzal does not prima facie indicate that the applicant and others had demanded money or that he was being pressurized to pay the money

to settle the case. The suicide note prima facie indicate that said Afzal had committed suicide as he was arrested in previous case and he felt humiliated and insulted because of his arrest and arrest of his family members. There is no other prima facie material to indicate that the applicant had provoked, instigated, goaded, enticed or aided Afzal in committing suicide or that he had facilitated commission of suicide.

5. In the light of the above facts and circumstances, in my considered view, the allegation levelled against the applicant do not prima facie constitute 'abetment' within the meaning of Section 107 of IPC. Hence, this is not a case which warrants custodial interrogation. It is to be noted that the co-accused Asif Sultan Shaikh, brother of the applicant, has been granted pre-arrest bail by order dated 21st September, 2018 in ABA/1947/2018. The applicant who is similarly placed is therefore entitled for bail on the principles of parity. The applicant is a permanent resident of Pune. There are no chances of his absconding or thwarting the course of justice. He has no criminal antecedents.

6. Under the circumstances, the application is allowed on

following terms and conditions:-

- (i) In the event of arrest of the applicant in Crime No.395 of 2018 registered with Chatrshringi Police Station, Pune, the applicant be released on bail on furnishing bail bond of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two solvent sureties in the like amount;
- (ii) The applicant shall report to the Investigating Officer for four days from Monday 29th October, 2018, from 11 a.m. to 2 p.m. and further as and when required by the Investigating Officer for the purpose of investigation and interrogation;
- (iii) The applicant shall provide his permanent as well as temporary address, if any, and his contact details to the Investigating Officer;
- (iv) The applicant shall not change his residential address without prior intimation to the Investigation Officer;
- (v) The applicant shall not tamper with the evidence or interfere with the complainant and the other witnesses in any manner.

7. In view of disposal of the anticipatory bail application,

application for intervention being APPP/1211/2018 does not survive and the same is also disposed.

(ANUJA PRABHUDESSAI, J.)