

HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 953 OF 2019

Asma Asgar Shaikh and Ors.	... Applicants
Versus	
The State of Maharashtra	... Respondent

Mr. Jatin S. Adhav, Advocate for the Applicants.
Ms. S. S. Kaushik, APP for the State/Respondent.
P.R. Shikalgar, API, Samarth Police Station, Pune City.

CORAM :- SARANG V. KOTWAL, J.
DATE :- 17th July, 2019.

P. C. :-

1. The applicants are seeking anticipatory bail in connection with CR No. 332/19 registered at Railway Police, Pune. Subsequently the investigation is carried out by Samarth Police Station, Pune by registering their CR No. 123/19 under Sections 306, 323, 504 read with 34 of the IPC.
2. The FIR in this case is lodged by one Mohd. Sharif Ismail Shaikh on 3rd April 2019 in respect of suicide committed by his son Mohd. Asgar Mohd. Sharif. The present applicant no. 1 is the widow of the deceased Mohd. Asgar. The applicant no. 2 is her mother and the

applicant no. 3 is her brother.

3. The FIR mentions that the deceased had got married with the applicant no. 1 about 17 years ago. After about one year, after the marriage, the applicant no. 1 started picking up quarrels with the first informant and his family. Therefore, the informant and his family gave consent to the couple to reside separately. The applicant no. 1 and the deceased were residing at Kondhwa. About nine to ten months prior to the incident, the deceased came to reside with the first informant's family as the applicant no. 1 was constantly harassing him. It is further alleged in the FIR that even thereafter, the applicant no. 1 used to visit their house and used to make trouble. On 1st April 2019, the deceased had gone to meet the applicant no. 1 at the hotel of first informant's brother. The deceased came home and told the first informant that the applicant no. 1 and her lover abused and assaulted him. The applicant no. 1 was demanding that the flat should be transferred in her name. According to the deceased, the applicant no. 1 was telling him that she wanted to obtain divorce and thereafter wanted to live with her boyfriend. For that purpose, after that incident the deceased had filed complaint with Samarth Police Station. Thereafter, deceased committed suicide by the jumping in front of a

running train on 2nd April 2019 in the morning. The FIR mentions that the suicide note was found on his person. It mentioned that the present applicants and applicant no. 1's friend were responsible for the deceased taking that extreme step. Based on these allegations the FIR was lodged.

4. Heard, Mr. Jatin Adhav, learned counsel for the applicants and Ms. Kaushik, learned APP for the State.

5. Mr. Adhav submitted that the applicants have not committed any offence. The deceased had committed suicide out of frustration as he was not doing any job. He further submitted that the applicant no. 1 had initiated proceedings under the Protection of Women from Domestic Violence Act (hereinafter referred to as 'DV Act') for maintenance for her children. The deceased was not in a position to give maintenance and that is the cause he had committed suicide. He further submitted that the flat in question already stood in the name of the applicant no. 1. Therefore, there was no question of her insisting to transfer that flat in her name.

6. As against this, the learned APP submitted that the suicide note itself mentioned the names of the present applicants. She further, on instructions of the investigating officer, accepted that the flat in

question stood in the name of the applicant no. 1. She also made a statement that the applicants had attended the police station and had co-operated with the investigation.

7. I have considered the submissions made by both the parties. There is a considerable force in the submissions of learned counsel for the applicants that the applicant no. 1 had filed proceedings under the DV Act and that the flat already stood in the name of the applicant no. 1. Even as per the FIR, the applicant no. 1 was residing separately. The deceased was a able bodied man. There was no reason as to why he should have committed suicide because of the present applicants. In any case, the allegations against the applicant no. 1 are not such as would suggest that she had forced the deceased to commit suicide. There are hardly any allegation against remaining applicant nos. 2 and 3. Though the suicide note itself mentioned their names, the investigation and allegations in the FIR do not make out a case of abetment of suicide against the present applicants. In any case, they have attended the police station and they cooperated with the investigation. Their custodial interrogation will not serve any further purpose.

8. In this view of the matter, applicants have made out a case for

protection of anticipatory bail. Hence, the order:-

ORDER

- (i) In the event of their arrest in connection with CR No. 123/19 registered at Samarth Police Station, Dist. Pune, (corresponding to earlier CR no. 332/19 registered at Railway Police, Pune), the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs. 25,000/- (Rupees Twenty Five Thousand Only) each with one or two sureties each in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)