

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.1629 OF 2019

Chetan Krushnaji Karve] ... Applicant

Versus

The State of Maharashtra] ... Respondent

Mr. Satyavrat Joshi i/b Mr. Nitesh Mohite a/w Mr. Sagar Tambe
Advocate for the Applicant.

Smt. A.A. Takalkar, APP for the State/Respondent.

API Swapnil Suresh Lokhande attached to Loni Kalbhor Police Station,
Pune Rural present.

CORAM :- SARANG V. KOTWAL, J.

DATE :- 24th JULY, 2019.

P. C. :-

1. The applicant is seeking anticipatory bail in connection with C.R.No.423/2019 registered with Loni Kalbhor Police Station, Pune Rural u/sec. 306 r/w 34 of I.P.C.

2. The offence is registered on 03.06.2019 by one Shivaji Chaindkar in respect of suicide committed by his son Sambhaji Chaindkar on 13/05/2019. It is mentioned in the FIR that, the informant's son had got married to one Ashwini in the year 2005. They have a son aged about 13 years. It is mentioned in the FIR that,

Ashwini had love affair with one Amol Chand since prior to her marriage and even after marriage, she continued meeting him. When the informant's son came to know about it, he was very upset. He tried to make her to see reason but she did not listen. The informant's son therefore was always tense and had got addicted to liquor. He had attempted to commit suicide on two occasions in the past. It is further mentioned in the FIR that besides Amol, Ashwini was having illicit relationship with one Amit Kadam and the present applicant.

3. It is further mentioned in the FIR that, on 04/05/2019 informant's son told him that he had caught Ashwini and Amit together in Hotel Garva and therefore, he was very upset. On 10/05/2019, the informant's son confronted Amit. But it was of no use. The informant told his son to reside separately from Ashwini. On 13/05/2019 at around 8.00 a.m. in the morning, informant's son called him and told him that, he was very upset and that he was thinking of committing suicide. The informant tried to pacify him. The informant called him at around 10.30 a.m., that time he told that Ashwini was in touch with Amit and Amit was planning to beat him.

At about 3.30 p.m., on the same day, the informant was told by police telephonically that, his son had committed suicide by hanging himself. From the pocket of dead body two suicide notes were found. In one of them it is mentioned that the deceased had caught his wife and Amit at Hotel Garva and in the second suicide note, he had mentioned that, he was committing suicide because of the illicit relations of his wife with the present applicant, Amit Kadam and Amol Chand. On this basis, the FIR is lodged.

4. Heard Mr. Satyavrat Joshi, Ld. Counsel for the Applicant and Smt. A.A. Takalkar, APP for the State/Respondent.

5. Mr. Joshi, Ld. Counsel for the applicant submitted that taking entire allegations in the FIR at the face value ; no offence of abetment to commit suicide is made out against the present applicant. He submitted that, though the applicant has denied that, there was an affair with the wife of the deceased, even assuming the allegations to be true, his acts cannot amount to abetment within the meaning of Section 107 of I.P.C. He relied on the judgment of the Hon'ble Supreme Court in the case of **Ghusabhai Raisangbhai Chorasiya and Ors. Vs. State of Gujarat** as reported in **AIR 2015 SUPREME COURT**

2670. He submitted that in that case, the wife had committed suicide because of the illicit relations of her husband. In that case, according to Ld. Counsel, the Hon'ble Supreme Court has held that mere extra marital relationship even if proved, would be illegal and immoral, but it would take a different character if the prosecutrix brought some evidence on record to show that the accused had conducted in such a manner to drive the wife to commit suicide. He submitted that, except for allegations of extra marital affair, no specific role is attributed to the present applicant and therefore ratio of this judgment is squarely applicable in this case.

6. Ld. APP submitted that, deceased has mentioned his name and at this stage, his involvement in the offence is clearly made out.

7. I have considered these submissions. There is considerable force in the submissions made by the Ld. Counsel for the applicant that, having illicit relationship with the wife of deceased, by itself will not amount to abetment to commit suicide. There are no allegations in the FIR that, the present applicant had frequently harassed the deceased and in any case it would not amount to instigation or

abetment as defined u/sec. 107 of I.P.C. The step taken by the deceased is unfortunate. However, it cannot be said that he was left with no option but to commit suicide. At this stage, custodial interrogation of the present applicant will not reveal in anything further. The ultimate effect of the relationship between the applicant and the wife of deceased will have to be decided during trial. However, at this stage the custodial interrogation of the applicant is not necessary. Hence, the following order.

ORDER

1. In the event of his arrest in connection with C.R.No.423/2019 registered with Loni Kalbhor Police Station, Pune Rural, the Applicant is directed to be released on bail on his furnishing P.R. Bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
2. The applicant shall attend the concerned police station from 01/08/2019 to 05/08/2019 between 3.00 p.m. to 5.00 p.m., and he shall co-operate with the investigation.
3. Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)