

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

ANTICIPATORY BAIL APPLICATION NO. 2168 OF 2019

Mrs. Ashwini Sambhaji Chaundkar	 Applicant
Versus	
The State of Maharashtra	 Respondent

Mr. V. V. Purwant, Advocate for the Applicant.
Mr. Prashant Jadhav, APP for the State/Respondent.
Mr. Raju Mahanor, API, Loni Kalbhor Police Station, present.

CORAM : SARANG V. KOTWAL, J.
DATE : 04th OCTOBER, 2019

P.C. :

1. The Applicant is seeking anticipatory bail in connection with C.R.No.423 of 2019 registered at Loni Kalbhor Police Station, under sections 306 r/w. 34 of the Indian Penal Code.

2. The FIR is lodged by one Shivaji in respect of suicide committed by his son Sambhaji. He has stated in his FIR that Sambhaji got married with the applicant in the year 2005. The deceased Sambhaji believed that the applicant was having affair

with one Amol Chand since prior to her marriage. Even after marriage, she continued meeting Amol. Sambhaji was disturbed. He started drinking liquor and got addicted to liquor. When this fact was told to applicant's brother and parents, they tried to make her see reason but they were not successful. The informant's case is that the deceased believed that the applicant was having illicit relations with Amol Chand, Amit Kadam and Chetan Karve. The informant had advised the deceased to stay separately from the applicant. However, in that state of mind, on 13/05/2019 the deceased committed suicide by hanging himself to ceiling fan in his house. Two suicide notes were found in his pocket, in which, he has squarely blamed aforesaid three persons and the applicant for having illicit relations. On this basis, the FIR is lodged.

3. Heard Shri. Viresh Purwant, learned counsel for the applicant and Shri. Prashant Jadhav, learned APP for the State/Respondent.

4. Shri. Purwant submitted that the deceased was under a

false impression and there is nothing to show that the applicant was having such illicit relations. The deceased had fallen prey to some rumour. However, assuming the allegations to be true, they would not amount to offence U/s.306 of the IPC, as they do not fulfill the ingredients as defined U/s.107 of the IPC. He relied on the orders passed by this court granting anticipatory bail to co-accused Chetan Karve in A.B.A.No.1629/19 and to Amit Kadam in A.B.A.No.1648/19. Learned APP opposed this application and submitted that the applicant is the main culprit. Because of her relations, deceased was harassed to such an extent that he had to take this extreme step.

5. I have considered these submissions. There is some substance in the submission of Shri. Purwant that there is no sufficient evidence to show that the applicant was having such relations with three persons. However, even if the allegations are true, it would still not be an offence U/s.306 of IPC. The Hon'ble Supreme Court in the case of *Ghusabhai Raisangbhai Chorasiya v. State of Gujarat*¹ in para 21 has held thus :-

¹ (2015) 11 SCC 753 : (2015) 4 SCC (Cri) 545

“21. ...True it is, there is some evidence about the illicit relationship and even if the same is proven, we are of the considered opinion that cruelty, as envisaged under the first limb of Section 498-A IPC would not get attracted. It would be difficult to hold that the mental cruelty was of such a degree that it would drive the wife to commit suicide. Mere extra-marital relationship, even if proved, would be illegal and immoral, as has been said in Pinakin Mahipatray Rawal v. State of Gujarat, (2013) 10 SCC 48 : (2013) 4 SCC (Civ) 616; but it would take a different character if the prosecution brings some evidence on record to show that the accused had conducted in such a manner to drive the wife to commit suicide. In the instant case, the accused may have been involved in an illicit relationship with Appellant 4, but in the absence of some other acceptable evidence on record that can establish such high degree of mental cruelty, the Explanation to Section 498-A IPC which includes cruelty to drive a woman to commit suicide, would not be attracted.”

6. Thus, relying on the same ratio, it is difficult to observe that the act of the present applicant would amount to commission of offence punishable U/s.306 of the IPC, even if the allegations are taken as true. In this view of the matter, the applicant deserves protection of anticipatory bail.

7. Hence, the following order :

ORDER

- (i) In the event of her arrest in connection with C.R. No. 423 of 2019 registered at Loni Kalbhor Police Station, Pune, the applicant is directed to be released on bail on her furnishing PR bond in the sum of Rs.25,000/- (Rupees Twenty Five Thousand Only) with one or two sureties in the like amount.
- (ii) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)