

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH, NAGPUR.

CRIMINAL APPLICATION (ABA) NO. 709 OF 2019

Devendra s/o Nanaji Bhalchakra .Vs. State of Maharashtra,through P.S.O,
P.S. Frezarpura, Amravati.

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's Orders.

Court's or Judge's orders.

Mr. R.M. Daga, Advocate for applicant.
Mr. J.Y. Ghurde, A.P.P. for non applicant- State.
Mr. R.J. Shinde, Advocate for complainant.

CORAM : V. M. DESHPANDE, J.
DATED : NOVEMBER 18, 2019

CRIMINAL APPLICATION (APPA) NO. _____ OF 2019

Mr. R.J. Shinde, learned counsel tenders an application on behalf of the first informant to assist the learned Additional Public Prosecutor.

The application is taken on record. For the reasons stated therein, the application is allowed.

Mr. Shinde, learned counsel is permitted to assist learned Additional Public Prosecutor. The application is disposed of.

CRIMINAL APPLICATION (ABA) NO. 709 OF 2019

This is an application for pre-arrest bail.

Heard Mr. R. M. Daga, learned counsel for the applicant, Mr. J. Y. Ghurde, learned Additional Public Prosecutor for the non applicant-State and Mr. R. J. Shinde,

learned counsel for the first informant. Also perused the reply filed on behalf of the prosecution.

The applicant is apprehending his arrest in connection with Crime No.945/2019 registered with Police Station, Frezarpura, Amravati for an offence punishable under Sections 306 and 498A of the Indian Penal Code.

The applicant is Indian Army personnel and he is discharging his duty in 13 Mahar Battalion at Roorkee in Uttarakhand State.

The marriage between applicant and Chanda was performed in June-2011 and from the wedlock, the couple is having two children.

The first information report is lodged on 04.09.2019 by Ashish Gavai, brother of deceased Chanda. The recitals of the report would show that the applicant used to visit Amravati during the leave period twice in a year. According to the report, on 26.08.2019, the applicant gave taunts to the deceased under the influence of liquor. The report also shows that on the said date at 09:00 O'clock in the night, under the influence of liquor the applicant assaulted on his wife and when the first informant tried to intervene at that time it is alleged that the applicant uttered that the deceased is having affair with one Rahul Raut and she talks with him on phone. According to report, the verbal altercations continued till 02:30 in the night. It is stated in the report, on 27.08.2019, when the first informant wake-up he noticed that the applicant was consuming liquor and his sister was sleeping. The report further states that at 07:30

a.m. deceased started vomiting. It is stated in the report that when he made inquiry with her she stated in very low voice as under :

“ती हलुवार बोलली माझ्या सहनशक्ती बाहेर
झाले तु माझ्या मुलांना सांभाळशिल”

According to report, thereafter she was taken in the hospital where she died on the very same day.

With the aforesaid nature of accusation made, in my view, the first informant ought to have lodged the report immediately looking to the seriousness however, for the reasons best known to the first informant, he kept mum till 04.09.2019 and only on 04.09.2019 the accusation surfaced.

The applicant was protected by this Court on 16.10.2019 with a direction to attend the police station and accordingly he has attended the police station.

The applicant is working Indian Army personnel and therefore there is no reason to apprehend that he will not be available to the course of justice. Further, at least at this stage the delay is found to be unexplained which has its own impact while considering the application for anticipatory bail looking to the nature of the accusation. In that view of the matter, I pass following order :

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.945/2019 registered with Police Station, Frezarpura, Amravati for an offence punishable under Sections 306 and 498A of the Indian Penal Code, applicant – Devendra s/o

Nanaji Bhalchakra, be released on bail on he executing P.R. Bond in the sum of Rs.10,000/- with one solvent surety in the like amount.

(iii) Since statement of the applicant is recorded by the investigating officer therefore applicant is no need to attend police station. However, he will be required to attend the trial scrupulously.

(iv) With this, the criminal application is allowed and disposed of.

JUDGE

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