

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.986 OF 2020
with
CRIMINAL APPLICATION NO.2074/2020

. Ganesh Sardar Salunkhe
Age: 45 Yrs., R/o Vidyavihar
Colony, Shirpur, Tq.Shirpur,
District Dhule. = **APPLICANT**

VERSUS

The State of Maharashtra
Through P.I. Jamner Police Station = **RESPONDENT/S**

Mr.Jaoslyn A.Menezes Adv. h/for Mr. PS Paranjape,
Advocate for Applicant/s;

Mr.AM Phule,APP for Respondent-State.;

Mr.GV Wani,Advocate to assist APP

CORAM : SMT.VIBHA KANKANWADI,J.

DATE : 9th December, 2020.

PER COURT:-

1. Criminal Application No.2074/2020 moved
to assist APP is allowed and disposed of.

2. Present ABA No.986/2020 has been filed by
the accused under Section 438 of Cr.P.C., as he is
apprehending his arrest in connection with CR No.
253/2020 registered on 28.9.2020 at Jamner Police
Station, for the offences punishable under sections

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306, 498A, 323, 504, 506 of IPC.

3. Heard learned Advocate for applicant and learned APP assisted by learned Advocate for the complainant.

4. It has been vehemently submitted on behalf of the applicant that the FIR has been lodged by father of the deceased with concocted story. The deceased is wife of present applicant. The deceased and present applicant got married in 2002 and deceased was serving as teacher in Zilla Parishad School since 2003. Present applicant was also serving as teacher earlier and now he is Headmaster. It is alleged that since six months after the marriage, present applicant was harassing the deceased for purchase of plot and for construction of house. The couple is blessed with son in 2003. By making vague allegations that after birth of the son also, the applicant was harassing her for bringing amount for construction; for purchasing plot and other valuable articles, of which details have not been given. He then says that in the year 2011, he had given amount of Rs.

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40,000/- in cash to the applicant and according to him, thereafter for about 4-5 years he was treated properly. Again he says that since 4-5 years prior to the FIR, the applicant started raising suspicion with her character and thereafter started physical harassment to her. According to the informant, the applicant and the deceased were posted in Shirpur and therefore, were residing together. But, due to the harassment of the applicant, deceased got herself transferred to a school at Ratanpura Borkund, Dist.Dhule and she was residing there since last about 1 ½ to 2 years with her son. It is further contended that the applicant used to go to the said place; demand amount to deceased; abuse and assault her and by giving threats he used to snatch her ATM card, withdraw the amount and also raise loan on LIC policy of the deceased. Due to the harassment from the applicant, the deceased used to say that she does not wish to live, but wish to die. But, then, the informant used to pacify her. The deceased committed suicide on 28.8.2020.

5. It has been further submitted on behalf

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of the applicant that the informant has intentionally suppressed the fact that present applicant has filed a petition for divorce before the Civil Judge, Senior Division, Dhule and in spite of service of the notice, she failed to appear and, therefore, the matter has proceeded *exparte* against her. That order was passed by the concerned Court on 11.2.2020. In his petition, the applicant has clearly stated that she is residing separately from him since 21st October, 2017. The applicant had not contacted the deceased thereafter for many days and on 22.11.2019, she has specifically told on phone that she needs divorce from him. Further, it is to be noted that son of the present applicant and deceased has given a complaint application to P.I., Jamner police station on 18.9.2020, arraying three different persons for her death. They are, - Eknath Vyankat Salunkhe; Shakuntala Vyankat Salunkhe and Girish Eknath Salunkhe, i.e. against the informant himself. The son used to be with the deceased all the times and, therefore, he has better knowledge about the relationship. Under such circumstance, physical custody of the applicant is not required

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and, therefore, he deserves to be released on anticipatory bail.

6. Per contra, learned APP well assisted by Advocate for the informant-complainant, vehemently submitted that the acts of the present applicant since beginning were of such nature that it amounted to physical as well as mental harassment to the deceased. In spite of that, she started residing separately; yet by going to that place, the applicant used to harass her. The suicide has been committed due to harassment and instigation by the applicant and, therefore, his custody is required.

7. At the outset, the contents of the FIR, which is against the present applicant, have been narrated earlier and, therefore, they are not required to be reproduced. The informant is father of the deceased. But, if we consider the complaint application that has been filed by son of the deceased and the applicant on 18.9.2020, then it can be seen that he is making the allegations about the instigation/abetment committed by the present

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informant, his wife and their son. Perusal of his written complaint, which is definitely prior to the FIR, shows that the present informant, his wife and son used to create mis-understandings between his parents, i.e. the applicant and the deceased. He has his own story to tell as to how the informant has abetted commission of suicide of his mother. However, it appears that though that complaint application was filed by him on 18.9.2020; yet no action was taken by the police. Even son of the deceased is making allegation that by using the ATM card of his mother, the informant and his wife and son have withdrawn the amount of Rs.1,00,000/- between 31.8.2020 to 4.9.2020, when, in fact, the deceased had committed suicide on 28.8.2020 itself. He states that since last three years, he is residing with his father and it was the informant and his family members, who used to keep his mother under mental pressure. It can be seen from the contents of the HMP No.400/2019 that the present applicant was not residing with the deceased on the day when she committed suicide or it was not even soon before the commission of suicide by her.

8. The fact to be noted is that the deceased had committed suicide on 28.8.2020. Naturally, AD would have been registered and the police would have been making inquiry regarding her death; yet the FIR has been lodged on 28.9.2020, that means after about a month. The belated FIR is also considered while considering the present application.

9. Taking into consideration the reasons stated herein above, physical custody of the applicant is not at all required and, therefore, the interim protection/relief that has been granted by this Court to the applicant on 13.11.2020, deserves to be confirmed and made absolute. Hence, following order, -

ORDER

- i. The Application stands allowed;
- ii. The order passed by this Court on 13.11.2020, thereby granting interim relief, is hereby confirmed and made absolute.
- iii. In other words, if the applicant is not arrested formally, in the event of arrest of the applicant in connection

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with CR No.253/2020 registered on 28.9.2020 at Jamner Police Station, for the offences punishable under sections 306, 498A, 323, 504, 506 of IPC, the applicant be released on PR and SB of Rs.15,000/-.

iv. The applicant shall not tamper with the prosecution evidence in any manner and shall co-operative with the investigation.

(SMT. VIBHA KANKANWADI,J.)

BDV