

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

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.183 OF 2020

Jagdish Shaman pavashe

...Applicant

Versus

The State of Maharashtra

...Respondent

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Mr. Mateen Abdul Rahim Shaikh a/w Mr. Adil Shaikh a/w
Mr. Shrinivas Kshirsagar a/w Mr. Nivrutti Pavase, Advocate for the
Applicant.

Mr. S. H. Yadav, APP for the State-Respondent.

Mr. Raju Adugule (PI.) - I.O. Taloja Police Station, Present.

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CORAM : PRAKASH D. NAIK, J.

DATE : 22nd January, 2020

PC :

1. The applicant is apprehending arrest in connection with C.R. No. 265 of 2019 registered with Taloja Police Station, for offence punishable under Section 306 r/w Section 34 of Indian Penal Code (for Short 'IPC').

2. The FIR was lodged on 31st December, 2019. The applicant is the brother-in-law of the victim. According to the first informant the marriage between the victim and accused No.1 was performed on 12th May, 2019. The accused had subjected the victim to ill treatment. The husband was neglecting her. He was repeatedly talking to some person on cell phone. The victim had also informed the complainant that he would cause harm to her life. The victim had

consumed pesticide. She was admitted in hospital. The complainant inquired with applicant about the incident. He was told that the victim had consumed pesticide. She died after 4 days. The offence under Section 306 of IPC was registered.

3. The applicant and the other accused preferred application for anticipatory bail. The mother-in-law, father-in-law and married sister-in-law were granted anticipatory bail. However, the application of the applicant was rejected. The accused is husband of the victim. He has been arrested and he is in custody. Learned advocate for the applicant submitted that reading the first FIR, the offence under Section 306 is not made out. Vague allegations are made in the FIR. There are no previous complaints. The co-accused were granted anticipatory bail. The statement of the witness Ramesh Shilkar who had allegedly stated that the victim had made oral dying declaration to him stating that he had handed over pesticide to her for consuming but was belatedly recorded on 13th January, 2020.

4. Learned APP submitted that incident had occurred within short span of the time after the marriage of the victim. FIR contains allegations of the harassment by applicant which had compelled to suicide the victim. The victim had made oral dying declaration to Ramesh Shilkar.

5. I have perused the FIR, There is no allegation of demand of dowry. The other persons were granted anticipatory bail. The victim was admitted by accused in the hospital. The learned Additional Sessions Judge rejected the application on the ground that statement of witness Ramesh Shilkar attributes role to the applicant, having handed over pesticide to the victim. From the FIR it is apparent that the complainant had apprehension that the victim would cause to harm to her life. The victim was in hospital for 4 days. Statement of Ramesh Shilkar was recorded on 13th January, 2020. He had not brought the said fact to notice of the brother of the victim or any other persons that the victim had giving oral dying declaration and impleaded the applicant. Considering these circumstances, applicant cannot be subjected to custodial interrogation. In the remand application dated 14th January, 2020 the custody of accused No.1 was sought by the police on the ground that the accused No.1 was having affair with one lady and there used to be frequent quarrels between accused No.1 and the victim.

6. Hence, I pass the following order.

ORDER

- i) Anticipatory Bail Application No.183 of 2020 of is allowed;

- ii) In the event of arrest of applicant in C.R. No. 265 of 2019 registered with Taloja Police Station, the applicant be released on bail on furnishing P. R. Bond in the sum of Rs. 25000/-, with one or more sureties in the like amount;
- iii) The applicant shall attend Investigating Officer on 29th, 30th, & 31st January, 2020 between 11.00 a.m. to 1.00 p.m. and thereafter as and when called for till filing of charge-sheet.
- iv) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)