

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

CRIMINAL ANTICIPATORY BAIL APPLICATION NO.344 OF 2020

1. Jabin Nawaj Shaikh, Age 26 years,	
2. Sajit Salim Hundekari, Age 30 years,	
R/o.At Post Koregaon Bhima, Tal.Shirur,	
District Pune.	Applicants
versus	
The State of Maharashtra	Respondent

Mr.Satyavrat Joshi i/by Nitesh J. Mohite for applicants.
Smt.A.A.Takalkar, App, for State.
Mr.H.U.Vairagkar, API, Shikrapur Police Station, Present.

CORAM : PRAKASH D. NAIK, J.

DATE : 10th February 2020

PC :

1. This is an application for anticipatory bail in CR No.5 of 2020 registered with Shikrapur Police Station, District Pune, for offences under Sections 306, 504, 506 r/w 34 of Indian Penal Code. The FIR was lodged on 5th January 2020.

2. The first informant is the brother of deceased. He committed suicide. The informant was married to applicant no.1. After marriage they resided together with the family of informant. However, after some days the applicant no.1 had threatened the parents and brother of the deceased and left the matrimonial home. The parents and sister-in-law along with the husband went to the house of informant and assaulted the brother of informant. The applicant no.1 was ailing and she used to visit her parental home frequently for treatment. The informant informed her to stay with him as there are several hospitals in the vicinity. The relatives of

applicant no.1 threatened the informant of lodging complaint and for treating applicant no.1 with cruelty. On 2nd January 2020 the relatives of wife of the informant visited the house of informant and questioned him for switching off the phone of his wife. The accused made demand of Rs.4 lakh with first informant. On 4th January 2020 the brother of first informant committed suicide.

3. During the course of investigation the statements of witnesses were recorded. The statements were also recorded u/s 161 of Cr.P.C. A suicide note purportedly written by the deceased was also recovered. The suicide note names some of the accused including applicants. In the suicide note it is stated that the brother of victim had married Jabin Shaikh (applicant no.1). The relatives of Jabin Shaikh are threatening the family of the victim and there is danger to the family.

4. The applicants had preferred application for anticipatory bail before the Sessions Court, which has been rejected. Earlier the Sessions Court has refused to grant interim protection to the applicants by order dated 9th January 2020 and directed them to remain present before the Court. The applicants have approached this Court preferring Anticipatory Bail Application No.130 of 2020. By order dated 17th January 2020 interim protection was granted to the applicants pending the application before Sessions Court. Subsequently the Sessions Court has rejected the application by order dated 24th January 2020. In paragraph 9 of the said order, however, it is observed that the application of the applicants has already been turned down by order dated 9th January 2020.

5. Learned counsel for applicants submits that offence u/s 306 of IPC is not made out. The applicant no.1 is the wife of informant. She is in advance stage of pregnancy. On account of allegations about the conduct of the husband and in-laws of applicant no.1, they cannot be held responsible for abetment to commit suicide. Learned APP submitted that the FIR attributes role to the applicants and the other accused. The statements of the witness were recorded u/s 164 of Cr.PC. The suicide note also implicates the applicants.

6. The marriage between the applicant no.1 and the informant was solemnized about eight months ago. It appears that there were matrimonial differences between the parties. According to the first informant, threats were issued to him and his family members and that his brother was assaulted. It is also alleged that they were threatened of filing of complaint and payment of Rs.4 lakh was made.

7. Taking the prosecution case as it is, prima facie, it is debatable whether provisions of Section 306 of IPC is made out. However, this is not a case to give any finding in that regard. Considering the factual matrix of the case, however, custodial interrogation of the applicant is not necessary. Hence, I pass following order :

ORDER

(i) Criminal Anticipatory Bail Application No.344 of 2020 is allowed and disposed of;

(ii) In the event of arrest of applicants in connection with CR No.5 of 2020 registered with Shikrapur Police Station, Pune, the applicants be released on bail on furnishing PR bond in the sum of Rs.25,000/- each with one or more sureties in the like amount;

- (iii) Applicant no.1 shall attend Investigating Officer on 17th and 18th February 2020 between 11 am and 1 pm;
- (iv) Applicant no.2 shall attend the Investigating Officer on 17th, 18th and 20th February 2020 between 11 am and 1 pm, and thereafter as and when called for.

(PRAKASH D. NAIK, J.)

MST