

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

CRIMINAL BAIL APPLICATION NO. 1093 OF 2020

1. Pawan Didwania
2. Vandana Agarwal
3. Anusuya Agarwal
Versus
The State of Maharashtra

.... Applicants
.... Respondent

**WITH
INTERIM APPLICATION (ST) NO. 7074 OF 2020**

Narendra Motilal Poddar
.... Intervenor

In the matter between:

Pawan Didwania & Ors.
Versus
The State of Maharashtra

.... Applicants
.... Respondent

Mr. Ashok Mundargi, Sr. Advocate i/b. Shreyansh R. Mithare for Applicants.

Mr. A. M. Saraogi, for Intervenor.

Mr. Deepak Thakare, PP a/w. Mr. Swapnil S. Pednekar, APP for State/Respondent.

**CORAM : SARANG V. KOTWAL, J.
DATE : 18th DECEMBER, 2020**

P.C. :

1. The Applicants are seeking their release on bail in connection with C.R.No. 1143 of 2020 registered at Samata Nagar

police station, on 23/09/2020, under section 306 r/w. 34 of the Indian Penal Code (for short 'IPC').

2. Heard Shri. Ashok Mundargi, learned Senior Counsel for the applicants, Shri. Deepak Thakare, learned Public Prosecutor for the State and Shri. Saraogi, learned counsel for the original first informant.

3. At the outset, learned PP. makes a statement that the investigation is over and the charge-sheet will be filed within a period seven days from today. The statement is accepted. In view of this statement, the learned senior counsel for the applicants stated that he was not pressing the application of the applicant No.1 Pawan Didwania, at this stage. He sought liberty to approach the court of sessions for his release on bail, after the charge-sheet is filed.

4. Permission is granted. The application in respect of applicant No.1 is allowed to be withdrawn with such liberty.

5. I am considering this application for bail in respect of Applicant Nos.2 and 3.

6. The First Information Report (for short 'F.I.R.') is lodged by the first informant on 23/09/2020. The F.I.R. is lodged in respect of commission of suicide by his son. His son had got married with the applicant No.2 on 22/01/2019. The applicant No.2 was residing in her matrimonial house with the deceased, the first informant and his wife. The F.I.R. mentions that, applicant no.2 was working in a bank. She used to return home very late. She used to give different excuses for coming late. There used to be frequent quarrels between the informant's son and the applicant No.2. It is alleged that the applicant No.2 used to taunt the informant's son that he was physically weak and he was not intelligent. The informant's son shared his private circumstances with the informant and the informant's wife. The F.I.R. makes allegation that the marriage between the informant's son and applicant No.2 was not consummated. The applicant No.2 kept him away from her.

7. On 03/12/2019 the applicant No.2 left her matrimonial house and went to reside at her parental home. It is mentioned in the F.I.R. that, the informant's son was disturbed because the applicant No.2 avoided him and used to taunt him. His depression became worse. It is mentioned in the F.I.R. that, the informant's son and the applicant No.2 used to speak on phone. The applicant No.2 wanted divorce. The original applicant No.1 was her uncle. The deceased was defamed through false statements. Such lies were spread among the acquaintances and common friends of both the families. It is alleged that the applicant No.1 used to threaten the informant and his family that they would be put in jail on some allegations. In the month of March, 2020 the applicant No.2 along with applicant No.1 and her brother came to the informant's house and took away her articles.

8. On 27/06/2020 the applicant No.1 demanded money by threatening the informant that, he would see to it that the informant and his family would go to jail. In the month of July, 2020 the informant paid Rs.12,50,000/- to the applicant No.1. The

informant's son came to know about it and he went deeper into his depression. It is alleged that the applicant No.3 also used to insult and humiliate informant's son on similar allegations.

9. On 25/07/2020, the informant's son committed suicide by sitting in his car and by opening a can of poisonous gas i.e. Carbon monoxide. On this basis, the F.I.R. is lodged.

Submissions:

10. The learned senior counsel submitted that the applicant No.2 was residing separately since 03/12/2019 and, therefore, she had no connection with the suicide committed by the informant's son on 24/07/2020. According to him, the fact that she had started living separately cannot amount to abetment to commission of suicide. He submitted that the incident of suicide had taken place on 24/07/2020 and the F.I.R. was lodged belatedly on 23/09/2020. He submitted that the F.I.R. is lodged as an afterthought only to implicate the applicants. He submitted that, all the applicants were arrested on 01/11/2020 and as pointed out by the learned PP the investigation is already over,

therefore, further custody of the applicants is not necessary. He invited my attention to a message sent by the deceased a couple of days prior to committing suicide, wherein, he had expressed his love for the applicant no.2 but had also expressed that he was going to end his life. He submitted that, even this message does not show that the deceased had real grievance against the applicant No.2. He submitted that, apart from a few vague allegations there is no material against the applicant No.3.

11. Shri. Saraogi, learned counsel for the intervenor submitted that the message sent by the deceased shows that he was going to end his life and yet applicant No.2 did not take any step of informing the informant, so that, his life could have been saved. He submitted that, there is no delay in registering of F.I.R. The informant was constantly pursuing the matter for registering the F.I.R. but the police did not pay any attention. Therefore, the informant had to approach this court by filing a Writ Petition for lodging of F.I.R. That Writ Petition was filed on 15/09/2020 and only thereafter this F.I.R. was lodged. Therefore, the informant

cannot be faulted with for late lodging of F.I.R. He submitted that the entire behaviour and actions of the applicant Nos.2 and 3, amount to abetment to commission of suicide.

12. The learned Public Prosecutor produced panchanama dated 25/09/2020 before me which contains the transcript of an audio clip recorded in the voice of the deceased. In that audio clip the deceased had blamed both the applicants. Apart from that, a message was sent saying that the applicant No.1 was spreading rumors against him and was pressuring him in signing divorce papers by threatening to implicate the deceased and his family U/s.498A of the IPC. He, therefore, submitted that, all these acts have contributed to the deceased committing suicide which would amount to abetment to commission of suicide.

Reasons:

13. I have considered these submissions. The marriage between the informant's son and the applicant no.2 had taken place on 22/01/2019. The F.I.R. mentions that the relations

between the couple were never cordial and ultimately she left the house on 03/12/2019. There is a gap of at least 7 months between applicant No.2 leaving the matrimonial house and commission of suicide by the deceased. The F.I.R. does mention that, since the applicant No.2 left the matrimonial house, the deceased went into depression. His situation became worse day by day. His depression could be a cause of his committing suicide. The act of the applicant No.2 leaving her matrimonial house cannot amount to 'abetment' as defined U/s.107 of IPC. Admittedly, the applicant No.2 was residing separately from the deceased and his family.

14. I have given serious consideration to the message sent by the deceased to the applicant No.2, a couple of days prior to his committing suicide. In that message, he had indicated his intention of committing suicide. While it is true, that the applicant No.2 could have contacted his parents and perhaps this unfortunate circumstance could have been avoided; but looking from her perspective, it appears that, she did not want to have any relations with the deceased. As submitted by Shri. Mundargi, the applicant

No.2 could be feeling that such messages were causing harassment to her instead. This incident is unfortunate, but it is difficult to observe that the role of the applicant No.2 would fall within the meaning of abetment as defined under section 107 of IPC.

15. There are hardly any allegations against the applicant No.3 except that she used to humiliate the deceased whenever the deceased went to their house. Certain allegations are directed against the applicant No.1, particularly in respect of issuing threats. But since his application is withdrawn I am not commenting any further in that behalf, at this stage. This would be the matter which can be addressed to by an appropriate court at an appropriate stage.

16. Though, the learned public prosecutor has relied on the audio clip blaming the applicant Nos.2 and 3, it is obvious that the deceased was extremely unhappy with all the applicants as the applicant No.2 had left him. Therefore, his anger directed against these applicants is also understandable. At this stage, there is

considerable force in the submission of Shri. Mundargi that the section 306 of IPC may not be applicable against the applicant Nos.2 and 3.

17. All these observations are made strictly for deciding this application for bail. The trial court at the appropriate stage, shall not, in any manner, be influenced by any of these observations.

18. As stated by the learned public prosecutor, investigation is over and the charge-sheet will be filed shortly. In this view of the matter, I do not think further custody of the present applicants, who are ladies, is warranted. The applicants do not have criminal antecedents. The applicant Nos.2 and 3 can be granted bail on certain conditions.

19. Hence, the following order :

ORDER

- (i) The applicant No.1 is permitted to withdraw his application with liberty to approach the court of

sessions for his release on bail after filing of the charge-sheet.

- (ii) In connection with C.R.No. 1143 of 2020 registered at Samata Nagar police station, the applicant Nos.2 and 3 are directed to be released on bail on their furnishing PR bonds in the sum of Rs.25,000/-each (Rupees Twenty Five Thousand each Only) with one or two sureties each in the like amount.
- (iii) Looking at the prevailing circumstances, it may not be possible for the applicant Nos.2 and 3 to furnish sureties immediately. Therefore, initially the applicants are permitted to furnish cash bail each for the same amount. The applicants will have to furnish the sureties, as directed, within three months from today.
- (iv) The applicant Nos.2 and 3 shall not visit the locality where the informant is residing and they shall not try to tamper with the evidence or witnesses.
- (v) Application stands disposed of accordingly.

- (vi) In view of disposal of B.A.No.1093 of 2020, the I.A. (ST) No.7074 of 2020 does not survive. It is also disposed of accordingly.

(SARANG V. KOTWAL, J.)