

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

CRIMINAL APPLICATION (ABA) NO. 888 OF 2019

Avinash s/o Mohan Ingole .Vs. State of Maharashtra, through PSO, PS, Old
City, Akola, Tq. and Dist. Akola

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

Court's or Judge's orders.

Mr. S.V. Sirpurkar, Advocate for applicant.
Mr. M.K. Pathan, Advocate for non applicant-State.

CORAM : V. M. DESHPANDE, J.
DATED : FEBRUARY 10, 2020.

Heard Mr. S.V. Sirpurkar, learned counsel for the applicant and Mr. M.K. Pathan, learned Additional Public Prosecutor for non applicant-State. Also perused the reply filed on behalf of the prosecution.

The applicant is apprehending his arrest in connection with Crime No.131/2019 registered with Police Station, Old City, Akola for an offence punishable under Sections 306, 307 and 498A of the Indian Penal Code.

Deceased Prajakta was married with the applicant on 23.08.2017. According to prosecution, applicant used to harass the deceased after 5 to 6 months of marriage and therefore an amount was paid to the applicant for purchasing the agricultural field.

It is not in dispute that Prajakta committed suicide at Akola and when suicide was committed by the deceased the applicant was discharging his duty at Army Camp, Pune. According to the prosecution, on 20.03.2019,

applicant made phone call to the deceased and on the same day itself she has committed suicide.

On 27.12.2019, the Vacation Court has granted interim protection in favour of the applicant with an observation that in the event if the investigating officer requires the presence of the applicant, the investigating officer will give appropriate notice to the applicant after which the applicant shall apply for leave from his employer i.e. the Indian Army and attend the investigating officer.

Mr. Pathan, learned Additional Public Prosecutor on the instructions given to him by Mr. Sujit Uday Kamble, investigating officer who is present in the Court makes a statement that after the interim order was passed by this Court the investigating officer did not give any notice to the applicant that he shall remain present before him. He also makes a statement that in fact the applicant has already sent his cellphone through registered post which is duly received by the investigating officer and accordingly the investigating officer has obtained CDR report of the said cellphone.

Mr. Pathan, learned Additional Public Prosecutor further submits that in view of aforesaid, the investigating officer did not issue notice to the applicant that he shall attend the police station.

In view of the aforesaid, it is made clear that custodial presence of the applicant is not required by the investigating officer. Consequently, I pass the following order:

ORDER

- (i) The application is allowed.
- (ii) In the event of arrest in connection with Crime No.131/2019 registered with Police Station, Old City, Akola for an offence punishable under Sections 306, 307 and 498A of the Indian Penal Code, applicant – Avinash s/o Mohan Ingole be released on bail on he executing P.R. bond in the sum of ₹10,000/- with one solvent surety in the like amount.
- (iii) It is made clear that till filing of the charge-sheet if the investigating officer requires presence of the applicant in the police station, the investigating officer shall give clear cut seven days prior notice to the applicant so that applicant will obtain leave from his employer i.e. the Indian Army.

The application is disposed of.

JUDGE