

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 120 OF 2021

Harshal s/o Sonyabapu Nannaware,
Age 25 years, Occ. Army Service,
R/o. Chincholi Ramjan, Thergaon,
Tq. Karjat, District Ahmednagar.

... **Applicant.**

VERSUS

The State of Maharashtra,
Through its Investigating Officer,
Karjat Police Station, Tq. Karjat,
District Ahmendagar.

... **Respondents.**

...

Advocate for the Applicants : Mr. N. B. Narwade.
APP for the Respondent/State : Mrs. R.P. Gaur.

CORAM : MANGESH S. PATIL, J.

DATE : 18.02.2021.

PER COURT :

The deceased had married the applicant on 20.11.2019. Since he is serving in Army he has been posted in Shrinagar. The deceased was cohabiting with her parents in law. There was demand for money for purchasing a sewing machine and a flour mill. Even the applicant is stated to have told her telephonically about his affair with a girl. The deceased was subjected to mental and physical stress which she could not sustain and committed suicide by hanging on 22.03.2020. Her father lodged the F.I.R. on 27.03.2020 and the offence was registered.

2 Apprehending his arrest in connection with Crime No. 219/2020, registered with Karjat Police Station District Ahmednagar for the offences punishable under Section 306, 498A read with Section 34 of the Indian Penal Code, the applicant is seeking bail under Section 438 of the Code of Criminal Procedure.

3. The learned advocate for the applicant would submit that even going by the allegations the applicant was not physically present. It is only telephonically that he is stated to have raised demand for money and to have told the deceased about his affair. Accepting these allegations at their face value it would not constitute prima facie abetment as defined under Section 107 of the Indian Penal Code.

4. The learned advocate would further submit that as far as the allegations regarding demand for money for repayment of loan is concerned, the extract of the loan account of the applicant does not demonstrate any amount having been deposited by the informant in that account. All the deposits were made by the applicant himself. He would therefore submit that applicant be granted anticipatory bail.

5. Learned A.P.P. opposes the application. She submits that a statement of informant has been recorded under Section 164 of the Code of Criminal Procedure. She has specifically stated about the applicant having transmitted photographs to the deceased to show that he was having an affair. Mobile phone of the applicant will have to be seized. Offence being serious custodial interrogation of the applicant is necessary.

6. I have carefully gone through the papers of the investigation. As can be seen the allegations against the applicant are twofold. Firstly, it is alleged that he demanded money to clear his loan. However the extract of the loan account available in the papers of the investigation does not support the allegations in the F.I.R. about the informant having deposited an amount of Rs. 1,37,811/- at any time much less on 05.03.2020 as is being alleged.

7 The second allegation against the applicant is about he having told the deceased about his affair. Assuming that he had done that still, there is a serious doubt as to if that would per se constitute abetment within the meaning of Section 107 of the Indian Penal Code.

8. It is indeed unfortunate that a newly wed girl has committed suicide. Whatever may be the reason, when admittedly the applicant has been serving in Army and was not physically present when the deceased was allegedly subjected to cruelty, his custodial interrogation does not seem to be imperative.

9. The Application is allowed. In the event of arrest of the applicant in connection with Crime No. 219/2020, registered with Karjat Police Station District Ahmednagar for the offences punishable under Section 306, 498A read with Section 34 of the Indian Penal Code, he shall be released on bail on his executing personal recognizance for an amount of Rs. 15000/- and furnishing a solvent surety in the like amount, subject to following conditions :

(a) He shall attend the concerned police station as and when called by the Investigating Officer and shall cooperate him till filing of the charge sheet.

(b) He shall not tamper the evidence or influence the witnesses.

(MANGESH S. PATIL, J.)

mkd/-