

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

**20 ANTICIPATORY BAIL APPLICATION NO.1216 OF 2021
WITH APPLN/3080/2021 IN ABA/1216/2021**

VISHAL DILIP PATIL
VERSUS
THE STATE OF MAHARASHTRA AND ANOTHER

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Mr. Chaitanya Deshpande, Advocate for the applicant.
Mr. A.V. Deshmukh, A.P.P. for respondent - State.
Mr. G.D. Jain and Mr. M.S. Sonawane,
Advocates assisting the PP.

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CORAM : **PRAKASH D. NAIK, J.**

DATE : 13-12-2021

ORDER :

1. The First Information Report (for short, 'FIR') was registered on 23rd August, 2021 vide Crime No.527 of 2021 with Dhule Taluka Police Station, District Dhule for the offence punishable under Sections 306, 504 and 506 of Indian Penal Code (for short, 'IPC'). The complaint is lodged by the mother of victim. It is alleged that the applicant was harassing the victim for a long period of time. He used to make calls to her. The victim had informed about the harassment to her parents. On account of the harassment meted to her, she committed suicide on 16th October, 2021.

2. Per contra, it is the case of the applicant that there was love affair between the victim and the applicant. The relationship was not approved by the parents of the victim. The applicant had

relied upon the Whats-App chats between the victim and the applicant and submitted that the conversation between them indicate that the victim was assaulted by her parents.

3. Learned A.P.P. submitted that investigation is in progress. Cell phone of the applicant has been recovered, but it was damaged by him and it has become difficult to retrieve the messages, photographs, etc. from the cell phone. Cell phone of the victim has been recovered which has been forwarded for forensic examination. The report is awaited. Statements of witnesses are recorded which indicate that there was continuous harassment to the victim by the applicant. There was continuous calls made by applicant to the victim even at wee hours which indicates the nature of harassment caused to her. Statements of the witnesses indicate that the applicant was threatening the victim. There were continuous calls before the date of incident. On account of harassment, she has committed suicide.

4. Learned Counsel for the complainant also supported the submissions of the learned A.P.P. It is submitted that two cases were registered against the applicant in the past. The victim was educated and she would not have relationship with such person. There was no response from her. The applicant / accused, on the contrary, was harassing the victim. The other statements attribute specific role to the applicant. There was no reason for the victim to

commit suicide. Applicant resides in the same village. The victim was under pressure. On 15.08.2021 applicant made continuous calls to victim. In paragraph No. 8 of the order passed by Sessions Court, it is observed that applicant relied on Whats-App chat. The chat suggests that one person was beaten by her family and there was quarrel. Other person was trying to console. The date and time shows that chats range from 15.08.2021, 12.56 a.m. to 10.02 p.m. with intervals. The last message is of 16.08.2021, 07.27 p.m. and it is "Goodbye forever". There is long gap between last messages of 15.08.2021 and 16.08.2021. Transcript does not show profile or cell phone number of applicant and victim. It does not show what transpired between them from 15.08.2021.

5. Learned counsel for the applicant, in re-joinder, submitted that whats-app chats clearly indicate that the victim was assaulted by the parents. They were against their relationship. He also relied upon the whats-app chat between them which indicates that the victim had responded to the applicant at about 2.08 a.m. on 15.08.2021. It shows the nature of relationship between the applicant and victim.

6. I have perused the documents. Prosecution has relied on CDR relating to the calls between applicant and victim. The cell phone of the applicant has been collected by the investigating agency. Although the cell phone of the victim was collected during investigation, the CDR relating to the calls, if any, made by the victim

to the applicant is not recovered. Cell phone of the victim has been forwarded for forensic examination. The requisition is made by the police to give opinion with regard to recovery of whats-app messages during the stipulated period, recovery of deleted messages, chats, etc., recovery of photographs, video, etc. The contention of the applicant is that they were in relationship. On account of harassment by the parents, she has committed suicide. Investigation is in progress. The chat also refers to response from victim as contended by applicant. On 15.08.2021 at 2.08 a.m. there are several calls from cell phone of the applicant to victim. The statement of witnesses mention that victim used to talk to applicant on cell phone. Although it is alleged that accused was threatening and harassing the victim, there are no complaints in that regard. However, taking into consideration the factual aspect as stated above, the applicant need not be subjected to custodial interrogation. Hence, I pass the following order.

ORDER

- (i) ABA No. 1216 of 2021 is allowed.
- (ii) Interim order dated 28th October 2021 is confirmed.
- (iii) In the event of arrest of the applicant in Crime No.527/2021 registered with Dhule Taluka Police Station, District Dhule, the applicant be released on bail on executing P.R. bond in the sum of Rs.25,000/- with one or more sureties in the like amount.

- (iv) Applicant shall report the Investigating Officer on 20.12.2021, 21.12.2021 and 22.12.2021 between 11.00 a.m. and 1.00 p.m. and thereafter as and when called for, till filing of the charge-sheet.
- (v) ABA No. 1216 of 2021 and Criminal Application No.3080 of 2021 stand disposed of.

(PRAKASH D. NAIK, J.)

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