

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1239 OF 2020

Bal @ Balasaheb Jagannath Bothepatil,
Age : 49 years, Occu. Service (Editor),
R/o Jidda Bungalow, Dena Bank Colony,
Near Premdan Chowk, Savedi,
Ahmednagar

APPLICANT

VERSUS

The State of Maharashtra,
through Supa Police Station,
Supa, District Ahmednagar

RESPONDENT

Mr. Santosh S. Jadhavar, Advocate for the applicant
Smt. R.P. Gaur, A.P.P. for the respondent/State
Mr. D.R. Markad, Advocate to assist the A.P.P.

CORAM : MANGESH S. PATIL, J.

DATE : 01.02.2021

PER COURT :

The applicant is seeking anticipatory bail in the event of his arrest in connection with Crime No.478 of 2020, registered with Supa Police Station, District Ahmednagar for the offence punishable under Section 302 read with Section 34 of the Indian Penal Code.

2. In substance, the allegations as can be discerned from the FIR and the papers of investigation are to the effect that the applicant and the deceased lady were having relations and to get rid of her, he engaged accused Sagar Uttam Bhingardive to kill her, who, in turn, engaged

accused No.2 Aditya Sudhakar Cholke, who managed to kill her by engaging the other accused.

3. The learned Advocate for the applicant would vehemently submit that the applicant is being falsely implicated. He is in journalism and is employed by a renowned Marathi daily. He has published several stories, including relating to sex racket being run by co-accused Sagar Uttam Bhingardive, who had every reason to falsely involve the applicant in the present crime. The learned Advocate would submit that apart from his articles regarding running of sex racket, even he had authored several news items concerning town planning commission scam of Ahmednagar city and in all probability, somebody aggrieved by his such articles, has falsely implicated him.

4. The learned Advocate would submit that the applicant is not being attributed with any direct involvement in killing the deceased. He is being implicated based on an inadmissible statement of co-accused Sagar Uttam Bhingardive. He is a person having strong roots in the society having good social work. He has been felicitated for that. He has landed property in Ahmednagar. There is no likelihood of his jumping the bail. He is ready to cooperate the Investigating Officer. His custodial interrogation is not necessary. He would be put to disrepute if he is allowed to be arrested without assurance of bail. The learned Advocate would cite the decisions in the cases of *Siddharam Satlingappa Mhetre Vs. State of Maharashtra & Ors.*;

AIR 2008 SC 218 and *Sushila Aggarwal Vs. State (NCT of Delhi) & Another (2020) 5 SCC 1*.

5. The learned A.P.P. vehemently submits that it is a matter of conspiracy. There is enough material to reveal that the applicant is the mastermind, who has given contract to kill the deceased. The transcripts of the telephonic conversation between the deceased and few witnesses reveal as to how the applicant was physically and mentally torturing her. Even there is writing left behind by her expressing her apprehension regarding threat to her life from the applicant. There is enough material to reveal that he had indeed hatched conspiracy with accused No. 5 Sagar Uttam Bhingardive. There is a CCTV footage showing that the applicant had carried an yellow bag outside his office and a corresponding CCTV footage showing that Sagar Uttam Bhingardive immediately thereafter carried the very same bag to his home. There is a CDR record showing that the applicant had indulged in conversation with the deceased during the relevant period in all probability to trace her location, which he used thereafter to inform Sagar Uttam Bhingardive, who, in turn, provided the information to the actual assailants. The applicant has even transmitted WhatsApp messages containing the photo of car of the deceased on the very date of the incident. It transpires in the investigation that the applicant had paid money to Sagar Uttam Bhingardive, some of which has been recovered from the latter's house and some from the other two accused. There is every possibility of applicant

tampering the evidence and threatening the witnesses if he is released on bail. His custodial interrogation is necessary. The transcript of telephonic conversation between the deceased and the applicant, prima facie, indicates that he was constantly threatening her of dire consequences. Lastly, the learned A.P.P. would submit that the applicant is avoiding his arrest and even a standing warrant has been issued by the concerned Magistrate under Section 73 of the Code of Criminal Procedure.

6. I have carefully gone through the papers as well as the recent decision of the Supreme Court in the case of ***Sushila Aggarwal*** (supra), which lays down the parameters to be considered while deciding the application for anticipatory bail.

7. Ex facie, the offence is grave and punishable with death.

8. Considering the circumstances pointed out by the learned A.P.P. mentioned hereinabove, the deceased in all probability has been killed pursuant to some conspiracy. Going by the contents of the FIR lodged by the mother of the deceased, who was travelling with her in the car which the latter was driving, attempt is made to divert attention inasmuch as the assailants were stated to have questioned the deceased about the objectionable manner in which she was driving the car. However, the further allegations in the FIR clearly indicate that the matter was not so simple. One of the assailants had, while questioning the deceased, made a phone call to

someone and it is thereafter that she was eliminated by slashing her neck with a deadly weapon. The very fact that these assailants were carrying the weapon further corroborates the inference that they were acting at the behest of someone.

9. As far as the role attributable to the applicant is concerned, the transcript of the telephonic conversation between the deceased and the applicant would clearly indicate that he was persistently abusing her in filthy language. Pertinently there is a telephonic conversation which also gives the hint that he was even intending to ascertain her location and had threatened her of dire consequences. Without indulging in scanning this telephonic conversation between the two, it is sufficient to observe that it clearly gives an indication as to the bitterness in the relation between the two to the extent that he was even intending to meet her with dire consequences, which is sufficient to infer that prima facie there was a strong motive for him to eliminate her.

10. Though it is now tried to be demonstrated that the co-accused Sagar Uttam Bhingardive had reason to entertain a grudge to falsely implicate the applicant, the CDR record reveals that the applicant was having continuous telephonic conversation with Sagar Uttam Bhingardive, particularly on the date of the incident. The applicant was also simultaneously intermittently having telephonic conversation with the deceased as well. Apart from the link that these circumstances establish, it is

indicative of the fact that it is not that accused No.5 Sagar Uttam Bhingardive could have falsely implicated the applicant. If really he was aggrieved by the news articles published by the applicant roping him in sex racket being run by him, there could not have been so many telephonic conversations between the two, that too on the date of the incident.

11. Then there are panchanamas of seizure of CCTV recordings of two places. In first, applicant can be seen carrying a yellow bag which is seen being carried away by Sagar Uttam Bhingardive in the second recording of the proximate time.

12. Considering all these facts, there is enough material to prima facie reveal involvement of the applicant in killing the deceased, for which he had a strong motive as well.

13. Needless to state that considering the complexity of the matter and the stage of the investigation, applicant's custodial interrogation is highly imperative. Even by resorting to the principles laid down in the case of *Sushila Aggarwal* (supra), the applicant is not entitled to derive any benefit.

13. The application is rejected.

[MANGESH S. PATIL]
JUDGE