

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1435 OF 2019

Sonu @ Siddhodhan Shivaji Ragde

... Applicant

Versus

The State of Maharashtra

... Respondent

.....
Mr. V. A. Bagdiya, Advocate for applicant.

Mr. A. M. Phule, APP for respondent – State.
.....

CORAM : SMT. VIBHA KANKANWADI, J.

DATE : 06-01-2021

ORDER :

. The applicant is apprehending his arrest in connection with Crime No.224 of 2019 registered with Pundlik Nagar Police Station, Dist. Aurangabad for the offences punishable under Sections 305, 507 read with Section 34 of Indian Penal Code and, therefore, he has filed present application under Section 438 of the Code of Criminal Procedure.

2. Heard learned Advocate Mr. V. A. Bagdiya for applicant and learned APP Mr. A. M. Phule for respondent – State. In order to cut short, it can be said that both of them have made submissions in support of their respective contentions.

3. Perusal of the FIR would show that the deceased girl, who had taken education up to 10th standard and is stated to be 15 years 6 months old at the time of offence, committed suicide on 24-05-2019 in between 5.00 a.m. to 7.00 a.m. at Bharagnagar, Aurangabad. The father and the girl along with other family members were residing at Rohegaon, Tq. Selu, Dist. Parbhani. It is contended in the FIR that original accused No.1 – Akshay Ashruba Salve, resident of village Rohegaon, used to torture the deceased, when she was at Rohegaon. The present applicant is the cousin brother of the deceased and it is stated that though he is resident of Zari, Tq. Jintur, Dist. Parbhani, by coming down to Rohegaon, he used to aid Akshay in giving harassment to deceased. On this count, the girl was shifted to her uncle's place at Bharatnagar, Aurangabad on 18-05-2019. The father of the deceased girl called present applicant to his house at about 9.00 p.m. on 23-05-2019 and made enquiry, at that time, present applicant told that he has no knowledge about anything. Thereafter, the informant gave phone call to his brother at Aurangabad. On that mobile phone, he contacted his daughter and made enquiry about Akshay, at that time, the girl told about the harassment by Akshay and that the present applicant used to aid Akshay. Thereafter, the present applicant took the phone from the informant and told the girl that she should not say anything otherwise, he would make their obscene photographs and video viral on Facebook and Whatsapp. After giving this threat, he cut the phone call and went home. On the next day morning, at

about 8.00 a.m., the brother of the informant gave phone call to the informant and disclosed that the girl had hanged herself with the help of her *Dupatta* and, thereafter, when she was admitted to Ghati Hospital, she has been declared dead. After bringing the dead body to Rohegaon, the last rites were performed. The mental condition of the informant was not proper and, therefore, he lodged a report on 27-05-2019.

4. From the contents abovesaid which are in the FIR, it is to be noted that there are many things which appears to have been not disclosed properly or in other words, the informant has hidden certain facts. First of all, since when said Akshay was allegedly harassing the deceased is not disclosed. It is also not disclosed when exactly she disclosed the said fact to the parents prior to 18-05-2019. It is stated that the present applicant used to aid Akshay in harassing the girl, but what kind of acts were done by him which amounted to aiding, have not been disclosed. Why immediately after the disclosure by the girl about the alleged harassment, no enquiry was made with the present applicant is also not disclosed. It also appears that in the entire process, the parents of the present applicant appears to have been not involved. The present applicant is the son of the sister of informant's wife. The question is why the present applicant would have aided a third person to harass his cousin sister. The entire story gives indication of some other fact which this Court would like to refrain to opine, but it appears to be not in the way the informant intends to disclose.

Further, the FIR says about the alleged threat given by the present applicant to the deceased girl, that too after taking phone from the informant. He has specifically stated that the said threat was given in his presence. The question is about the conduct of the informant after he heard the said threat. The FIR is silent about the same. FIR only says that after giving alleged threat, the present applicant had cut the phone call and went to his house. Even after giving such threat, how the informant would have allowed the applicant to go home, is a question. Under such circumstance, when the real story appears to be different, it should not affect the personal liberty of the applicant. Even after taking into consideration the contents of the FIR, the physical custody of the present applicant for the purpose of investigation appears to be not required and, therefore, the application deserves to be allowed :-

ORDER

- I) Application stands allowed.
- II) The ad-interim protection, granted by this Court earlier to the applicant vide order dated 28-11-2019, is hereby confirmed and made absolute. In other words, in the event of arrest of the present applicant in connection with Crime No.224 of 2019 registered with Pundlik Nagar Police Station, Dist. Aurangabad for the offences punishable under Sections 305, 507 read with Section 34 of Indian Penal Code, he be released on P. R. and S.B. of Rs.15,000/-.

- III) The applicant shall remain present before the Investigating Officer on every Sunday between 10.00 a.m. to 2.00 p.m. till filing of charge-sheet.
- IV) He shall not tamper with the evidence of the prosecution in any manner.
- V) He shall not indulge in any criminal activity. He should cooperate with the investigation.

[SMT. VIBHA KANKANWADI, J.]

scm