

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.38 OF 2020

Shivratna Deepak Gaikwad

Applicant

versus

The State of Maharashtra

Respondent

Advocate Vilasini Balasubramanian i/by Adv.RiteshThobde for applicant.

Ms.P.P.Shinde, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 18th September 2021

PC :

1. This is an application for anticipatory bail in C.R. No. 867 of 2019 registered with Sadar Bazar City Police Station, Solapur for offences punishable under Section 306 r/w Section 34 of Indian Penal Code. The FIR was lodged on 16th November, 2019.

2. The victim was residing at Solapur for further studies. She had disclosed her parents that she is in love with the applicant and she intends to marry him. It is alleged that the aunt of the applicant had called the complainant and told him to advice the victim not to marry with applicant. The victim was in disturbed mind and on questioning her she had disclosed that the applicant had refused to marry her. She was in relationship with him since last 8 years and according to the complainant on the promise of marriage, the victim was subjected to physical relationship. The victim committed suicide on 15th November, 2019.

3. Learned counsel for the applicant submitted that taking the prosecution case as it is, the ingredient to constitute offence under Section 306 do not exist. The victim and the applicant were major. As per the prosecution case they were in relationship for a period of 8 years. The alleged suicide note indicate that, after having love affair for a period about 8 years, the applicant has now refused to marry and therefore victim committed suicide. It is submitted that the applicant has no criminal antecedents. The aunt of the applicant has been granted anticipatory bail by the Sessions Court.

4. Learned APP submitted that the complainant and the statement of other witnesses would indicate that the victim was induced to have relationship under the pretext of marriage and subsequently, the applicant has refused to marry her. The conduct of applicant compelled her to commit suicide. Suicide note was recovered from the place of incident. Another incomplete suicide note was also recovered from the place of incident which was in torned four pieces of paper. The applicant and the co-accused had instigated abated the victim to commit suicide.

5. The prosecution case is that, there was relationship between the victim and the applicant for a period about 8 years. The suicide note recovered during the course of investigation refers to the fact that the victim is ending her life. She was in relationship with the applicant for period about 8 years. They were intending to marry. However, today applicant is not willing to marry. She had a dream of performing marriage with the applicant. She is in love with him and there was physical relationship between them. Thus, suicide note would indicate that both of them were in relationship for long time

and they had intended to marry. However, now the accused had refused to marry her. The statement of various witnesses were recorded during the course of investigation. The statements indicate that the applicant and the victim were in relationship and most of the time they were together. Statement of one of the witnesses however, mentions that the victim had informed him that she was to marry with applicant. They were together since last eight years. However, on instructions of aunt Seema Patil, the applicant has refused to marry her. Seema Patil was implicated as co-accused and she has granted anticipatory bail. I have perused the investigation papers and call record between the victim and applicant. There were several calls and messages between victim and applicant, which shows that they were in relationship.

6. The applicant was granted interim protection vide order dated 9-1-2020. He was directed to attend Investigating Officer. It is not disputed that applicant has complied the directions. Learned APP, on instructions, submit that investigation is almost complete. Charge sheet has not been filed since report of handwriting expert is awaited. On considering the facts as stated above, the custodial interrogation of applicant is not necessary. Interim protection granted to the applicant can be confirmed. Hence, I pass following order :

ORDER

- (i) Anticipatory Bail Application is allowed and disposed of;
- (ii) Interim order dated 9-1-2020 is confirmed;
- (iii) In the event of arrest of applicant in CR No.867 of 2019 registered with Sadar Bazar City Police Station, Solapur, the applicant be released on bail on his executing PR bond in the sum of

Rs.25,000/- with one or more sureties in the like amount;

(iv) The Investigating Officer shall communicate the date of filing of charge sheet to the applicant and on receipt of such communication the applicant shall appear before the concerned Court at the time of presentation of charge sheet;

(v) The applicant shall attend Investigating Officer and provide his contact number and address within one week from today.

(PRAKASH D. NAIK, J.)

MST