

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.422 OF 2020**

Dilip Girdhar Jadhav	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

WITH
INTERIM APPLICATION NO. 1172 OF 2020
WITH
ANTICIPATORY BAIL APPLICATION NO.422 OF 2020

Popatrao Baburao Lokhande	.. Applicant
Versus	
The State of Maharashtra	.. Respondent

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Mr. Ashwin Thool i/b Prafull M. Gaikwad for the applicant.
Ms. Avanti Inamdar i/b R.N. Gite for the intervenor.
Smt. Veera Shinde, APP for the State.
PSI Shri Ganesh K. Akhade from Saikheda police station,
Niphad, present.

**CORAM: BHARATI DANGRE, J.
DATED : 15th NOVEMBER, 2021**

P.C:-

1 Heard learned counsel for the applicant, learned
counsel for the complainant and learned APP for the State.

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2 By order dated 25th February 2020, the applicant was admitted to protection from arrest in connection with C.R.No. 9 of 2020 registered with Saikheda Police station, Niphad, Nashik, thereby invoking Sections 306, 498A, r/w Section 34 of the IPC and the offence under Section 376 being invoked against the brother of the accused Balu Jadhav in the backdrop of the allegation that he had sexually assaulted her. As far as the present applicant is concerned, the accusation against him is to the effect that he threatened the victim to withdraw the complaint and made repeated phone calls to mount the pressure upon her.

3 While hearing the application on 25th February 2020, this Court has observed as under :-

“6 The allegation that the calls were made by the applicant to threaten the victim is reflected in the FIR lodged by uncle of the deceased. In the suicide note, however, the victim has blamed the brother of the applicant. There is no reference of threatening calls made by the applicant in the said note. In the circumstances, interim protection can be granted to the applicant with directions to cooperate with the investigation”

4 In the wake of the aforesaid reasons, the applicant was held entitled for protection. Today, the learned APP state that the investigation now reveal that the applicant has made merely 40

phone calls to the victim between the period 2019 till four days prior to death of the deceased. The FIR refer to the phone calls made by the applicant but in the suicide note, as has been observed in the earlier order passed by this Court, there is no reference to the phone calls. In any case, it is also informed by the learned APP that the main accused Balu Jadhav has succumbed to the Covid Pandemic.

5 In any case, the applicant will have to take the consequences when he will have to face the charge under Section 306 of the IPC and it would all depend whether the prosecution would be able to establish that the applicant instigated commission of suicide by the victim girl. This is a matter of trial and the charge would be established on the outcome of the trial.

6 Learned APP make a categorical statement that since the charge is not yet filed against the present applicant, he shall attend the Investigating Officer and assist him in completing the investigation. Learned counsel for the applicant assure that the applicant shall co-operate with the investigation.

7 Since the interim protection continue in favour of the applicant since 25th February 2020, I am inclined to confirm the same subject to the further stipulation that the applicant shall report to the Investigating Officer on 22nd November 2021 to

24th November 2021 between 11.00 am to 2.00 pm. He shall render all his co-operation in the investigation and shall abide by condition no.3 of the order dated 25th February 2020 and hand over the mobile phone for the purpose of investigation, since it is informed by the Investigating Officer that he has not yet received the mobile phone.

Failure to abide by the terms and conditions will entitle the prosecution to take out an application for cancellation of bail.

SMT. BHARATI DANGRE, J