

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

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ANTICIPATORY BAIL APPLICATION NO. 1062 OF 2021

Samir Abdul Salim Shaikh .. Applicant
Vs.
The State of Maharashtra .. Respondent

Ms. Sana Raees Khan for the Applicant.
Mr. Y. M. Nakhwa, APP for the Respondent-State.
PSI, Yuvraj D. Patil, Nehru Nagar Police Station present.

CORAM : PRAKASH D. NAIK, J.
DATE : 11th JUNE, 2021.

P. C. :

1. This is an application for anticipatory bail in C.R. No. 19/2021 registered with Nehru nagar Police Station, Mumbai for the offences under Sections 306, 354 (D) of the Indian Penal Code. The FIR was registered on 23.01.2021.
2. The complainant is the brother of the deceased. In the complaint it is alleged that the deceased (sister of the complainant) was being harassed by the applicant. There were repeated telephonic calls by the applicant. On account of the calls made by the applicant there were differences between the victim and her husband. Due to mental torture, the victim had committed suicide.
3. Learned Counsel for the applicant submitted that the documents on record would indicate that the victim and the applicant were in consensual relationship. Reliance is placed on the photographs and the whatsapp chats between the applicant and deceased. It is further submitted that the audio recording of the conversation between the victim and her husband indicates that the relationship was not cordial between them. She had expressed that her husband is planning to kill her. On account of harassment caused by the husband, the victim was constrained to take step of committing suicide.

4. Learned Counsel for the applicant further submitted that there is no suicide note. There are no previous complaints by the victim against the applicant. There is no evidence to establish that the applicant has instigated or abetted the victim to commit suicide. There was marital discord between the deceased and her husband which is evident from the transcript of conversation between the deceased and her husband.

5. Learned APP, however, submitted that the statement of the husband of the deceased was recorded. The applicant was harassing the victim. The statement refers to the information provided by the victim to the husband that the applicant is harassing her. The statements of two employees of the deceased were recorded which refer to the fact that the victim transferred an amount of Rs.81,000/- to the account of the applicant through online transfer.

6. On perusal of the FIR, investigation papers and considering the submission of both sides, it can be seen that undisputedly there are no complaints against the applicant. The fact that the online transfer of amount by the employees of the victim to the account of the applicant cannot be considered as incriminating circumstance against the applicant. By order dated 16.04.2021 the applicant was granted interim protection by this Court with directions to appear before the Investigating Officer and co-operate with the investigation. Learned Counsel for the applicant has submitted that the applicant has complied with the directions. In view of the aforesaid circumstances, the applicant need not be subjected to the custodial interrogation and this application can be allowed. Hence, the order:

ORDER

- (i) The application is allowed.
- (ii) Interim order dated 16.04.2021 is confirmed.
- (iii) In the event of arrest of the applicant in C. R. No. 19/2021 registered with Nehru Nagar Police Station, Mumbai, the

applicant be released on executing P.R. bond in the sum of Rs.25,000/- with one or two sureties in the like amount.

- (iv) The applicant shall not tamper with the evidence.
- (v) The applicant shall appear before the Investigating Officer as and when called till filing of the charge-sheet.
- (vi) Application stands disposed of.

[PRAKASH D. NAIK, J.]