

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO.1474 OF 2021

Nisha @ Muskan Indraprakash Rana	Applicant
versus	
The State of Maharashtra	Respondent

Mr.Sudeep Pasbola i/by Mr.Suryakant J. Shelke for applicant.
Ms.Anamika Malhotra, APP, for State.

CORAM : PRAKASH D. NAIK, J.

DATE : 30th June 2021

PC :

1. This is an application for pre-arrest bail in CR No.I-105 of 2021 registered with Kapurbawdi Police Station, Thane for offences under Sections 306, 109, 411 r/w 34 of Indian Penal Code. The FIR was lodged on 26th March 2021.

2. The prosecution case is that the complainant is the son of deceased Shobraj Raghani. On 23rd March 2021 call was received from Police that father of complainant is injured and taken to Kalwa Hospital. The complainant and others visited Kalwa Hospital. They were informed by Police that complainant's father had booked a room in Raj Residency Hotel and he had assaulted the injured (applicant) with knife all over her body and attempted to commit her murder. Thereafter complainant's father jumped from the window of hotel and died. On 25th March 2021 cell phone of deceased was found in the drawer of table. Note book was also found. He had

written a suicide note in the said note book. On reading the suicide note the complainant realized that from 2016 the applicant-accused who was working in bar and her sister had blackmailed the deceased and duped for an amount of Rs.1.50 crore. Hence he jumped from window of hotel and committed suicide. The suicide note was handed over to police. The FIR was registered on 28th March 2021.

3. The applicant preferred application for anticipatory bail before the Court of Sessions. The said application was rejected by order dated 30th April 2021. The applicant preferred another application for similar relief and the said application was also rejected by order dated 14th June 2021.

4. Learned advocate for applicant submitted that deceased had assaulted the applicant by giving multiple stab injuries on her vital parts and applicant was under treatment continuously. The deceased had booked room in Hotel Residency and called the applicant. After she reached the hotel room, she was brutally attacked by the deceased. It is admitted fact that Police were called by the hotel staff after the incident and during enquiry by Police, the deceased jumped from open window of hotel and was declared dead. The applicant was taken for treatment in Government Medical Hospital, at Kalwa, Thane and thereafter she was transferred to Siddhivinayak Hospital for further treatment and plastic surgery. The applicant has been falsely implicated in the offence. She has no criminal antecedents. As per FIR and statements of other witnesses, the version of complainant with regards to blackmailing the deceased for an amount of Rs.1.50 crores, is contradictory. The suicide note does not mention the said aspect. As per suicide note, the deceased started

visiting ladies bar and thereafter there was relationship between the deceased and applicant. He was treating the applicant as second wife. Subsequently relationship broke down. In the suicide note it is not stated that Rs.1.50 crore was given to applicant by deceased. Phone call was received from hotel staff and Police visited the spot on receipt of information. They noticed that applicant was brutally assaulted by deceased. She was unconscious and blood was oozing from the injuries sustained by her. During the course of enquiry by Police when the deceased was sitting on the corner of hotel room, he jumped from hotel room in front of Police and hotel staff. Hence, theory of abetment to suicide is not attracted against applicant. The applicant is single mother of one child aged about 7 years. She has sustained grievous injuries in the incident. She was under attendance and support of other person for daily activities. Custodial interrogation of applicant is not necessary. Section 306 IPC is not sustainable without positive action proximate to the time of occurrence on the part of accused which led the person to commit suicide. She is the victim of brutal assault committed by deceased before he jumped from the window. The applicant has relied upon the photographs indicating nature of serious injuries sustained by her due to assault by the deceased with sharp weapon.

5. Learned APP submitted that the FIR and the material on record would indicate that applicant has abetted suicide. The deceased was blackmailed. He was induced to part with huge amount of Rs.1.50 crore. The applicant and her sister had exploited him financially and mentally. The suicide note was written by victim, which clearly attributes role of abetment to the applicant. The victim had jumped from the window in presence of applicant and others. The suicide

note was written prior to the incident of jumping from window. The offence u/s.306 of IPC is made out. The statement of wife of deceased reveal that the deceased had given articles including gold ornaments to the applicant. Mere filing of charge sheet against arrested accused does not mean that applicant is entitled for pre-arrest bail.

6. I have perused the documents on record. The deceased and the applicant were apparently closely acquainted with each other. They were in relationship. The deceased had booked a room in hotel. The applicant was called in the room. The deceased was armed with weapon. He assaulted the applicant. On account of brutal assault at the instance of deceased the applicant had sustained about 30 injuries. On hearing the shouts of applicant on assault by the deceased, hotel staff had arrived at the place of incident. Police were called. The victim was present in the room and he was sitting on window. Police were trying to enquire with him about the incident of assault and at that point of time he jumped from the window. The situation at the time of incident gives an impression that the victim had jumped from the window after assaulting the applicant brutally and when Police had arrived in the room where the applicant was lying in pool of blood. The photographs annexed to this application show that applicant had sustained serious injuries. The brutal assault was all over the body of applicant. There is no reference of parting of amount of Rs.1.50 crore, as stated by the informant in alleged suicide note.

7. Considering the factual aspects as well as fact that applicant had sustained serious injuries, she need not be subjected to custodial

interrogation. Case for grant of anticipatory bail is made out. Hence, I pass following order :

ORDER

- (i) Anticipatory Bail Application No.1474 of 2021 is allowed;
- (ii) In the event of arrest of applicant in connection with C.R.No.I-105 of 2021 registered with Kapurbawdi Police Station, District Thane, the applicant be released on bail on executing P.R.bond in the sum of Rs.25,000/- with one or more sureties in the like amount;
- (iii) The applicant shall attend the Investigating Officer as and when called for and shall co-operate with investigation;
- (iv) Anticipatory Bail Application stands disposed of accordingly.

(PRAKASH D. NAIK, J.)

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