

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION

ANTICIPATORY BAIL APPLICATION NO. 1748 OF 2021

Nikhil Chandrakant Garud ...Applicant

Versus

The State of Maharashtra ...Respondent

.....
Mr. Piyush Toshnival i/b. Mr. Vivek N. Arote for the Applicant.
Mrs. Anamika Malhotra, APP for the Respondent-State.
Mr. Amol B. Jagtap for the Intervenor.
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CORAM: V.G.BISHT, J.

DATE: 26th OCTOBER, 2021

PC:-

1. By this Application, the Applicant seeks pre-arrest bail in connection with C.R. No. 109 of 2021 registered with Sinhagad Road Police Station, Pune City for the offences punishable under Sections 306, 498A read with 34 of the Indian Penal Code (for short, the IPC).

2. Informant's daughter, namely, Neha (since deceased) was married to the Applicant on 7th June, 2011. The prosecution alleges that the Applicant from time to time used

to harass deceased mentally and physically and asked to bring monies for household expenses and to purchase flat. Even the deceased was forced to undergo an abortion. Ultimately, the deceased committed suicide. Informant-mother accordingly lodged the First Information Report (FIR) against the Applicant.

3. Mr. Toshnival, learned Counsel for the Applicant, submits that the allegations made in the FIR, even they are taken at their face value and accepted in their entirety, do not *prima facie* constitute any offence punishable under Sections 306, 498A read with 34 of the IPC. So also, it is not a case wherein custodial interrogation of the Applicant is necessary. In such circumstances, the Applicant be given the benefit of pre-arrest bail, urged learned Counsel.

4. Mrs. Malhotra, learned APP, on the other hand, opposes the submission by contending that the investigation is in progress and having regard to the seriousness of the offence,

the Applicant should not be given the benefit of pre-arrest bail.

5. Mr.Jagtap, learned Counsel for the Intervenor, who was allowed to assist the learned APP has also made submissions, as is advanced by learned APP.

6. Reading of FIR as a whole would suggest that the deceased was subjected to physical and mental harassment and to this extent, at the most, it can be said that necessary ingredients of Section 498A are there. However, as far as Section 306 read with 107 of the IPC is concerned, in my considered opinion, the necessary requisites and the parameters required for “abetment”, at the first blush, are not discernible. There is no material on record either to indicate abetment or instigation at the hands of Applicant. It is not made clear as to how the Applicant instigated or abetted the deceased to take extreme steps of committing suicide.

7. Apart from above, even if it is taken for the sake of argument that the necessary ingredients are there, even then

there is no necessity of custodial interrogation. The custody of Applicant in the facts and circumstances is not desirable.

8. For the aforesaid reasons, I am inclined to allow the Application with following order :

ORDER

- (i) The Application is allowed.
- (ii) The ad-interim protection granted by this Court on 8th October, 2021 is confirmed and made absolute.
- iii) The Application stands disposed of accordingly.

(V.G.BISHT, J.)

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