

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO. 2307 OF 2021

Swati Rajaram Borate

.... Applicant

Versus

The State of Maharashtra

.... Respondent

Mr. Girish R. Agrawal for Applicant.

Mr. Y. M. Nakhwa, APP for State/Respondent.

CORAM : SARANG V. KOTWAL, J.

DATE : 29th SEPTEMBER, 2021

P.C. :

1. Leave to amend is granted. Amendment to be carried out forthwith.

2. The applicant has filed anticipatory bail application before the court of Sessions, at Karad. That application is Criminal M.A. No.308 of 2021. In that application, the applicant is praying for anticipatory bail in connection with C.R.No.410 of 2021, registered at Karad Taluka Police Station, Dist. Satara, on 05/09/2021, under sections 143, 147, 148, 306, 324, 506 r/w. 149 of the Indian Penal Code (for short 'IPC'). That application is still

pending. Learned Additional Sessions Judge, Karad, vide his order dated 17/09/2021 had rejected the prayer of ad-interim protection and the matter was posted for hearing for the say of the investigating officer, on 24/09/2021. Even then, the application was not finally decided on 24/09/2021. I am informed by Shri. Agrawal, learned counsel for the applicant that the matter is kept before the sessions court today for further consideration.

3. Learned counsel for the applicant submitted that, his limited prayer is that the applicant be protected till the decision of that application pending before the sessions court. He submitted that the applicant is a lady. She has 5 years old daughter and 10 years old son. Major allegations are against her brother and that should be considered.

4. Learned APP does not have instructions.

5. I have considered these submissions. I have perused the F.I.R. There are allegations that the deceased Mangesh Kadav was found dead on the bank of the river Kanegaon. His postmortem revealed that, cause of death was Asphyxia due to drowning. Thus, it was unnatural death. The F.I.R. mentions the

incident dated 02/09/2021, in which the deceased was assaulted by the applicant, her brother Omkar and four others. There is description of some threats issued against the deceased. Since the application for anticipatory bail is pending before the sessions court, I am not commenting anything on the merits of the matter. The application for anticipatory bail was preferred by the applicant before the sessions court on 14/09/2021. The order refusing ad-interim relief was passed on 17/09/2021 and till today the matter is not decided. Learned counsel for the applicant submitted that, on 24/09/2021 the investigating agency sought time to give their reply.

6. In this view of the matter, to give a fair opportunity to the applicant to present her case for anticipatory bail, she can be protected by way of limited relief.

7. It is made clear that, this court has not made any observations on the merits of the matter. The sessions court shall decide her application purely on the merits of the matter without being influenced by the limited relief granted vide this order. The applicant can be protected till the decision of that application

before the sessions court, mainly because the investigating agency has not argued the matter promptly and the matter is still pending for no fault of the applicant. As submitted by learned counsel for the applicant, at this stage, it is difficult to observe anything further as to whether the applicant or the investigating agency is responsible for keeping the matter pending. However, it is necessary to give her proper opportunity to present her case.

8. Hence, the following order :

ORDER

- (i) In the event of her arrest in connection with C.R.No.410 of 2021, registered at Karad Taluka Police Station, Dist. Satara, till the decision of Criminal M.A. No.308 of 2021, pending before the learned Additional Sessions Judge, Karad, the applicant is directed to be released on bail on her furnishing P. R. bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) with one or two sureties in the like amount.
- (ii) Learned Additional Sessions Judge, Karad is requested to decide that application, as early as possible.

- (iii) It is made clear that the application shall be decided on its own merits in accordance with law, without being influenced by this order.
- (iv) Application stands disposed of accordingly.

(SARANG V. KOTWAL, J.)