

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (BA) NO. 443 OF 2021

M. Shrinivasa Reddy s/o M. Rama Subba Reddy

vs.

The State of Maharashtra through PSO PS, Dharni, District Amravati

Office Notes, Office Memorandum of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Mr. A. A. Naik, Advocate for applicant.

Ms. S. Z. Haider, APP for sole respondent.

CORAM : MANISH PITALE J.

DATED : 17/07/2021

Hearing was conducted through Video Conferencing and the learned counsel agreed that the audio and visual quality was proper.

2. By this application, the applicant is seeking bail in respect of an FIR dated 26/03/2021, registered under Section 306 of the Indian Penal Code (IPC). The applicant was not arrayed as an accused in the FIR, wherein one Mr. Vinod Shivkumar, i.e. the Deputy Conservator of Forest of Gugamal Division was arrayed as accused. The applicant was subsequently added as accused in the matter. The incident in question pertains to suicide committed by a Range Forest Officer by shooting herself with her service revolver on 25/03/2021.

3. While issuing notice on 11/05/2021, this Court had granted interim bail to the applicant on specific condition. This Court took note of certain aspects of the present case, while considering the prayer for interim bail. The relevant portion of the order dated 11/05/2021 reads as follows :-

“10. A perusal of the FIR shows that the only person named as an accused on 26/03/2021 was Vinod Shivkumar, the Deputy Conservator of Forest. It is against this accused person that the informant has specifically made allegations as being the only person responsible for driving his wife to suicide.

11. A perusal of three letters written by deceased RFO shows that the allegations of harassment are against the said accused Vinod Shivkumar and it has been stated in all these three letters addressed to the applicant, the informant (husband of the deceased) and her mother that the said Vinod Shivkumar is the only person responsible for driving her to take the extreme step. Although there is reference to the name of the applicant in these letters, it is more in the nature of the applicant not being able to help the deceased in the backdrop of the harassment she allegedly suffered at the hands of the said Vinod Shivkumar. In any case, the time period pertaining to when the deceased allegedly approached the applicant appears to be somewhere in October 2020, which is not in proximity with the date on which she committed suicide on 25/03/2021.

12. Apart from this, the documents show that the applicant stood transferred from Amravati to Nagpur on 26/03/2021 and he was placed under suspension by order dated 31/03/2021. Admittedly, the applicant appeared before the Investigating officer on 01/04/2021 and before the Senior IPS officer at Mumbai on 21/04/2021 in pursuance of the enquiry initiated in the matter as regards the role of the applicant.

13. *It is also an admitted position that the applicant has remained in police custody for three days and thereafter he has continued in Magisterial Custody till date.*

14. *In view of the aforesaid material on record, it prima facie appears that emphasis placed by the Sessions Court in its order rejecting bail application of the applicant on the alleged omission on the part of the applicant in the context of Section 107 of the Indian Penal Code appears to be misplaced. The Sessions Court has proceeded on the basis that the said alleged illegal omission of the applicant also drove the victim to suicide, without appreciating that such alleged illegal omission ought to have been with mens rea on the part of the applicant to drive the victim to suicide. Prima facie, it appears that the Sessions Court proceeded on an erroneous basis.*

15. *Even otherwise, the applicant is ready to co-operate with the investigation. He has already remained in custody since 29/04/2021. The learned A.P.P. was not able to explain as to why further custody of the applicant is required in the present matter, particularly, when he is ready to co-operate with the investigation and he has given an undertaking that he will not leave the district of Nagpur during pendency of the present application.*

16. *In view of the above, this Court is of the opinion that in the facts and circumstances of the present case, prayer for grant of interim bail deserves to be favourably considered.*

17. *Hence, during pendency of the present application, the applicant is directed to be released on interim bail on the following conditions.*

a) *Applicant shall furnish PR bond of Rs.50,000/- (Rs. Fifty Thousand).*

b) *Applicant shall not leave district Nagpur during pendency of the present application, except when called by the Investigating Officer for interrogation / enquiry at Amravati.*

c) Applicant shall co-operate with the investigation.

d) Applicant shall not himself or through any other person seek to influence the witnesses or tamper with the evidence.

e) Applicant shall report to Police Station, Sadar, Nagpur between 10:00 AM to 12:00 Noon on every Monday during the pendency of the present application.

f) Applicant shall surrender his passport, if any, before the Investigating Officer.

18. The learned A.P.P. is directed to keep copies of investigation papers ready for the perusal of this Court on the next date of listing.

19. List the application for further consideration in the week commencing 7th June, 2021.

20. Steno copy be supplied to the parties to act upon.”

4. The learned APP submits that the investigation papers are available with her when the application is taken up for hearing today.

5. Mr. Naik, learned counsel for the applicant, reiterated the contentions raised on behalf of the applicant, which were raised before this Court on 11/05/2021. Additionally, it is submitted that the co-accused person Mr. Vinod Shivkumar himself has been recently granted bail on 14/07/2021, by an order of a co-ordinate Bench of this Court. It is submitted that the alleged role of the applicant before this Court is far

fetches and therefore, the present application deserves to be allowed.

6. Ms. Shamsi Haider, learned APP submitted that the applicant in the present case, was aware about the grievances of the deceased and that he failed to take remedial action in that regard, indicating his involvement in the offence.

7. This Court has already noted the relevant aspects of the matter in the above quoted portion of the order dated 11/05/2021. The emphasis placed by the Court below while rejecting bail under Section 107 of the IPC is clearly misplaced, because the aspect of existence of mens rea in the context of alleged illegal omission on the part of the applicant is a factor completely ignored by the Sessions Court while rejecting bail.

8. It is evident from the material on record that the reference to the victim in the present case allegedly having approached the applicant pertains to October, 2020, which obviously has no proximity with the date when the victim committed suicide i.e. on 25/03/2021. In addition, since the co-accused Vinod Shivkumar, who is alleged to have a bigger role to play in the incident, has been already granted bail, this Court is of the opinion that the present application deserves to be allowed and the interim bail granted to the applicant deserves to be confirmed.

9. Accordingly, the present application is allowed in terms of the conditions imposed in the order dated 11/05/2021, except that the applicant will now not be required to report to the concerned police station on every Monday and instead he shall make himself available as and when the Investigation Officer requires his presence.

10. Condition (b) imposed on the applicant is also modified to the effect that the restriction not to leave Nagpur will not operate and instead the applicant shall not leave the country during the pendency of the investigation.

11. Application is disposed of.

JUDGE