

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO.139 OF 2022

Karan s/o Anurath Salave

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
- 2) X Y Z

...RESPONDENTS

...
Mr.Shashikant E. Shekade Advocate for Applicant.
Mr.V.M. Kagne, A.P.P. for Respondent No.1 – State.
Mr.V.P. Kadam Advocate for Respondent No.2 (appointed
through Legal Aid).

...

WITH

ANTICIPATORY BAIL APPLICATION NO.154 OF 2022

Nagarabai W/o Kalu Are

...APPLICANT

VERSUS

- 1) The State of Maharashtra,
- 2) X Y Z (Through Father)

...RESPONDENTS

...
Mr.Angad L. Kanade Advocate for Applicant.
Mr.V.M. Kagne, A.P.P. for Respondent No.1 – State.
Mr.V.P. Kadam Advocate for Respondent No.2 (appointed
through Legal Aid).

...

CORAM: SMT. VIBHA KANKANWADI, J.

DATE : 4th MARCH, 2022

ORDER :

1. Both the applicants are apprehending their arrest in connection with Crime No.246 of 2021 registered with Pimpalner Police Station, Taluka and District-Beed for the offence punishable under Sections 306, 506, 305 read with Section 34 of the Indian Penal Code and Sections 16 and 17 of the Protection of Children from Sexual Offences Act.

2. It will not be out of place to mention here that initially the offence appears to have been lodged under Section 306 of the Indian Penal Code, however taking into consideration the age of the deceased, who was admittedly minor, it appears that Section 305 of the Indian Penal Code and also Sections 16 and 17 of the Protection of Children from Sexual Offences Act, came to be added.

3. Heard learned Advocates for the applicants and learned APP for the respondent – State. In order to cut-short, it can be

stated that both the sides have made submissions in support of their respective contentions.

4. Applicant in Anticipatory Bail Application (for short "ABA") No.139 of 2022 has been posed as accused No.2 in the First Information Report (for short "FIR"). The FIR has been lodged by the father of the deceased. The deceased was 16 years old girl. The papers show that the girl committed suicide on 7th December 2021 in her house. The postmortem report gives the probable cause of death as "death is due to cardio-respiratory arrest due to asphyxia due to hanging". Whatever the articles were required to be seized from the sport have been seized under the Panchnama. Further the police papers also show that the statements of witnesses have also been recorded, especially of the sister of the deceased. She was the person who alleged to have had disclosed the reason for the suicide by the sister to the father on a next day of the incident. That comes on 8th December 2021. However, it appears that the FIR has been lodged on 13th December 2021 and therefore, there is apparent delay.

5. As regards the applicant in ABA No.139 of 2022 is concerned, he has been posed as friend of accused No.1 – Vishal

Shinde and it is alleged that by visiting the places with Vishal Shinde, this applicant used to insist deceased that she should marry Vishal. Further, it is stated that once the applicant had gone to the house of the deceased and threatened her that she should marry Vishal. It is then stated that Vishal and the present applicant had taken deceased once to Beed and the threat was given that if she does not accompany them, her photographs would be made viral. Taking into consideration these allegations, nothing is to be recovered from him and the custodial interrogation is not required. For the smooth investigation, if his custody is made available for some hours, tht would suffice. He was granted interim protection by this Court by order dated 4th February 2022, which deserves to be confirmed.

6. As regards the applicant in ABA No.154 of 2022 is concerned, the allegations are that she had allowed her Mobile Phone to be used for the communication between deceased and accused Vishal. It is also alleged that this applicant – Nagarabai was also insisting deceased that she should marry with Vishal. Taking into consideration these allegations also, the physical custody of the applicant for the purpose of investigation is not required. The report of the Police Officer shows that he has already made correspondence for CDR, SDR, tower location of

the accused. It may pre-suppose that Investigating Officer has Mobile Number of this applicant with him.

7. No doubt, suicide of a girl of 16 years old is disturbing. But, whether the acts alleged as against these applicants would amount to abetment as per Section 107 of the Indian Penal Code would be the main task for the trial Court. Definitely that would depend upon the evidence that would be adduced. However, taking into consideration the allegations, at the cost of repetition, it can be said that physical custody of the applicants is not required. The allegation about the photographs those were taken of the deceased, are in the Mobile Phone of accused Vishal Shinde and not in the Mobile Phone of this applicant – Nagarabai and therefore, her application also deserves to be allowed. Hence the following order is passed:-

ORDER

- i) Both the Applications are allowed.
- ii) The interim protection granted to the applicant in Anticipatory Bail Application No.139 of 2022 by this Court by order dated 4th February 2022 stands confirmed. It is thus

clarified that in the event of arrest of applicant – Karan S/o Anurath Salave in connection with Crime No.246 of 2021 registered with Pimpalner Police Station, Taluka and District-Beed for the offence punishable under Sections 306, 506, 305 read with Section 34 of the Indian Penal Code and Sections 16 and 17 of the Protection of Children from Sexual Offences Act, he be released on PR Bond of Rs.50,000/- (Rupees Fifty Thousand) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand) each, if already not released.

iii) Applicant – Karan S/o Anurath Salave shall attend Pimpalner Police Station on every Thursday between 10.00 a.m. to 2.00 p.m. till filing of the charge-sheet and co-operate with the investigation.

iv) In the event of arrest of applicant – Nagarabai W/o Kalu Are in Anticipatory Bail Application No.154 of 2022, in connection with Crime No.246 of 2021 registered with Pimpalner Police Station, Taluka and District-Beed for the offence punishable under Sections 306, 506, 305 read with Section 34 of the Indian Penal Code and Sections 16 and 17 of the Protection of Children from Sexual Offences Act, she be released on PR Bond of

Rs.50,000/- (Rupees Fifty Thousand) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand) each.

v) Applicant - Nagarabai W/o Kalu Are shall attend Pimpalner Police Station as and when called by the Investigating Officer and co-operate with the investigation.

vi) Applicants shall not tamper with the evidence of the prosecution in any manner.

[SMT. VIBHA KANKANWADI , J.]

asb/MAR22