

(1)

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

929 ANTICIPATORY BAIL APPLICATION NO.713 OF 2022

MOHD. ABED MOHD. RAFIQ AND ANOTHER  
VERSUS  
THE STATE OF MAHARASHTRA

Mr. Shaikh Joyeb I., Advocate for applicants;  
Mr. V.S. Badakh, A.P.P. for respondent

**CORAM : S. G. MEHARE, J.**

**DATE : 15<sup>th</sup> June, 2022**

**P.C.**

1. Heard the learned Counsel for the applicants and the learned A.P.P. for the State.

2. It has been alleged against the applicants that they have grabbed money and property from the deceased under the threat to viral the video of his carnal intercourse. It has also been alleged that the deceased was harassed by the applicants, hence he has committed suicide on 6.11.2018.

3. Learned Counsel for the applicants would submit that the deceased used to commit carnal intercourse with many people. He

(2)

was treating the patients under magic. He has further referred to the report lodged by one Smt. Roshani against the deceased. Serious allegations of carnal intercourse were made against the deceased. He also referred to another first information report lodged by one Mohd. Altaf against the deceased that he had indulged in the carnal intercourse in the monastery and thereby a crime was registered against him. He also pointed out that the present applicants were the witnesses in the first information lodged against the deceased by one Smt. Roshani. The deceased himself had indulged in carnal intercourse, and was addicted to such intercourse. The applicants are law abiding persons and they have no concern with the incident of committing suicide by the deceased. They never blackmailed the deceased, nor received the money or grabbed the property from him. Whatever transactions were there, those were the voluntary transactions. There was a huge material against the deceased about his conduct involving in carnal intercourse. A false report was filed by the deceased before a day of committing suicide. The investigation is mostly completed and the charge-sheet is also filed. Nothing is to be recovered and discovered from the applicants. Therefore, they be released on anticipatory bail.

(3)

4. Per contra, the learned A.P.P. opposed the application contending that recovery and discovery cannot be the sole factor to be considered while considering the anticipatory bail application. He pointed out that a day before the incident, the deceased had lodged a complaint in detail against the applicants indicating how he was harassed by all the accused and how his property was grabbed and money was extracted from him under the threat to viral the video of his carnal intercourse. He further pointed out that the offence is serious and related to the religious feelings of a community. The complainant is a lady and accused-applicants are united and, hence, there is every possibility of pressurizing her. Therefore, the application deserves to be dismissed.

5. Perused the application and the charge-sheet made available by the learned A.P.P. The record reveals that there were complaints against the deceased about committing carnal intercourse and magics. The first information report lodged by one Smt. Roshani reveals that the deceased was treating her. In her case, the present applicants were the witnesses. The offence for outraging the religious feelings was registered against the deceased.

(4)

6. Having perused the charge-sheet and the documents on record, there appears substance in the submission of the learned Counsel for the applicants that the applicants were the witnesses in the case lodged by Smt. Roshani. Thus, the possibility of false implication of the applicants in the crime cannot be ruled out. The prosecution has no material to satisfy the Court that something is to be recovered and discovered from the applicants. Hence, the application deserves to be allowed. Therefore, the following order:-

- 1) Criminal Application stands allowed.
- 2) In the event of arrest of the applicants (1) Mohd. Abed S/o Mohd. Rafiq and (2) Mohd. Mohsin S/o Mohd. Rafiq, in connection with C.R. No.491/2018, registered with Nanalpeth Police Station, Parbhani, for offences punishable under Sections 306, 377, 384, 385, 323, 500, 504, 506 (2) and 120-B of the Indian Penal Code, they be released on bail, on each of them furnishing P.B. and S.B. of Rs.20,000/- with one solvent surety of like amount, on the condition that they shall attend the police station as and when called by the

(5)

Investigating Officer on written notice and shall not tamper with the prosecution witnesses.

**(S. G. MEHARE, J.)**

amj