

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

928 ANTICIPATORY BAIL APPLICATION NO.1177 OF 2022

**NITIN SUNILRAO DOIPHODE
VERSUS
THE STATE OF MAHARASHTRA**

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Advocate for Applicant :Mr. Khade Kishor D.
APP for Respondents State : Mr. P. K. Lakhotiya
Advocate for the complainant: Mr. Prasad D. Jarare

CORAM : S. G. MEHARE, J.

DATE : 13th SEPTEMBER, 2022

ORDER:

1. Heard the learned counsel for the applicant, the learned APP for the State and learned counsel for the complainant.
2. The applicant is brother-in-law of the deceased. He has the case that since last two years, he is residing at Nashik and the deceased and his brother were residing at Jamkhed. However, intermittently they were visiting their house at Wadawani. The applicant has no concern with the dispute between husband and wife. False allegations have been levelled against him that he was asking the deceased to bring dowry for constructing the house. He was continuously busy in pursuing his post graduation study and he being brother-in-law of the deceased, arrayed as accused with the intention to spoil his life. There is no evidence at all against the applicant to show that any time before the incident, he harassed or tortured the deceased or demanded money to the deceased. The applicant was not even having knowledge about the

dispute between husband and wife. On the contrary, he was treating the deceased well being his sister-in-law. Hence, the applicant may be released on anticipatory bail.

3. The learned APP has strongly opposed the application contending that the the offence is serious. The deceased has committed suicide by cutting left hand nerve in the home. The presumption under the Indian Evidence Act is in favour of the prosecution. There are consisting statements against the applicant that he was asking deceased to bring money for constructing the house. The offence is serious and therefore his application may be dismissed.

4. The learned counsel for the complainant has vehemently argued that the offence is serious. It is not a suicide but a murder. The incident happened within very short period of marriage. Therefore, the presumption is in favour of the deceased and the prosecution. There are direct allegations against the applicant of harassment and demand of dowry. He has referred to the Whatsapp chat of deceased with her brother and sister. He has also vehemently argued that one Member of Legislative Assembly is relative of the applicant and therefore, the investigation is not properly done. He has vehemently argued that the applicant was also the member of family and he has committed a serious offence.

5. Perused the papers produced by the prosecution and the

learned counsel for the complainant.

6. Strong material relied on by the learned counsel for the complainant is Whatsapp chat. Reading the Whatsapp chat, not a single chat is against the present applicant. On the contrary, it reveals after visiting her parents, her husband become calm. The incident happened within three months form her marriage. The applicant has a good case that he was residing separate from the deceased and her husband. He was pursing his education at Nashik. The material relied upon by the learned counsel for the complainant does not reveal a single allegation against the applicant in the Whatsapp chat. The complainant has also submitted a document to the Superintendent of Police in relation to the crime. That has also been considered by the investigating officer.

7. Prima facie, the facts are favourable to the applicant for grant of anticipatory bail. Hence, the following order:-

O R D E R

- (i) The application is allowed.
- (iii) The interim protection granted to the applicant by order dated 30th August, 2022 is confirmed on the same terms and conditions with additional condition that the applicant shall attend the concerned police station as and when called on written notice.

(S. G. MEHARE, J.)

JPChavan