

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

**928 ANTICIPATORY BAIL APPLICATION NO.1297 OF 2022
WITH APPLN/3384/2022 IN ABA/1297/2022**

DHANRAJ SHESHERAO NAGARGOJE AND ANOTHER
VERSUS
THE STATE OF MAHARASHTRA

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Advocate for Applicants : Mr. Lavte Amar Vinayakrao.
APP for Respondent-State : Mr. K.S. Patil.
Adv. for Complainant to assist learned APP : Mr. Vikhe P. B.
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**CORAM : S. G. MEHARE, J.
DATE : 06.10.2022**

PER COURT :-

1. Heard the learned counsel for the applicants, learned APP for the respondent-State and learned counsel for the Complainant assisting the learned APP

2. The deceased was the wife and daughter-in-law of the applicants. She married six years before the applicant Dhanraj. They have been blessed with a male child. They were residing in the field. It is not in dispute that the parents of the deceased were residing about 100 meters away from the house of the applicants. The deceased was the daughter of the maternal aunt of the applicant/husband. Unfortunately, the deceased committed suicide in the house by hanging on 24.08.2022. The mother of the deceased lodged the report on the very same

day, alleging that she heard the noise from the house of the deceased, so they went there and saw that she was hanged by the scarf, so they went there and saw her dead. Then, police came there, they drew panchnama and took her dead body for post-mortem. It has been alleged that the applicants were harassing her, saying that she had no good face. She was continuously harassed. Therefore, she committed suicide.

3. Learned counsel for the applicants has vehemently argued that the deceased was undergoing treatment for BAD mania (Bipolar Mania). Therefore, she used to be under depression. Her husband was treating her with a psychiatrist. Therefore, possibility of committing suicide under depression can not be ruled out. The applicants never ill-treated the deceased and had no quarrels at any time. She was the paternal sister of her husband. There were no complaints in six years of her marriage. He has also referred to Modi's Medical Jurisprudence, 27th edition, published by LexisNexis in the year 2021. He referred to page No.565 and showed a similar picture of the deceased committing suicide. Modi has named such type of suicide "typical hanging". He also read the commentary on page No.566 of the same book that, "In hanging from a low point of suspension (partial hanging), a comparatively little force, about 4.5 k.g. is enough to occlude blood vessels of the

neck. The term, "partial hanging" is used for such cases in which the bodies are partially suspended, or for those in which the bodies are in a sitting, kneeling, reclining, prone, or any other posture. In all such cases, deaths are inevitable from slow asphyxia, if there is enough force upon the ligature to constrict the neck." He also referred to page No.571 and read from the said page that, in a typical hanging, "the tongue is drawn in, or caught between the teeth, or protruded and bitten. It is usually swollen and blue, especially at the base."

4. In short, he argued that the tongue used to be inside the mouth in such a type of hanging. He would submit that there were no other signs except the ligature marks. The ligature marks were antemortem. There were no injuries to her face. It was purely a suicide. The relevant material has been seized from the spot of the incident. The false allegations have been levelled against the applicants that the deceased died due to harassment.

5. Application has been strongly opposed by the learned APP and learned counsel for the Complainant. He has vehemently argued that bipolar mania never depressed a person to such an extent as to commit suicide. However, she had been harassed since the day of her marriage. The

circumstances around the dead body, where she was hanged, also create suspicion. A plastic chair was lying behind the dead body, and nothing was disturbed around the dead body. That means she did not resist death and also did not try to save her life. These circumstances raises a serious doubt about her hanging. She was ill-treated. She has no reason to commit suicide. Therefore, the application deserves to be dismissed.

6. The learned APP would submit that there was a rigour mortis. The death is unnatural, and the possibility of hanging her after murder cannot be ruled out. The offence is serious, and therefore, the custodial interrogation is essential to know how the deceased died.

7. Before embarking upon the factual aspects, as admitted by the learned counsel by the Complainant that the deceased was suffering from Bipolar Disorder, it would be appropriate to discuss what is a bipolar disorder. In Modi's Medical Jurisprudence (supra), Bipolar Disorder is discussed on page No.1031. Bipolar Disorder is used for a group of mental illness with primary disturbances of effect, from which all other symptoms arise. The effect i.e. the mood, varies between extreme poles of cheerfulness and sadness. The illness has a second characteristic of periodicity. The third characteristic is

returning to normalcy from the attack without impairment of mental integrity. In practice, one finds that a single attack of mania or a single attack of depression can occur. It occurs in persons predisposed to mood disturbances.

8. Whether she died of Bipolar Disorder may be investigated during the trial. The facts remain that she was suffering from Bipolar Disorder which was a mental illness. Depression is one of the stages in Bipolar Disorders. She was under the treatment for about last eight months. The applicant and deceased were from a poor strata of the society. Considering the facts of hanging as discussed above, no one can doubt that there may be suicide in the way she hanged herself. It is not a thumb rule that in every suicide, in resistance, surrounding articles must be disturbed. Modi's Jurisprudence (supra) reveals that a weight of 4.5 kg is sufficient pressure to die. The Post Mortem Report is the best piece of evidence in this case. No surface wounds (external wounds) over the body except the ligature marks. The ligature marks have been described in detail. Naturally, those must be antemortem. There were no other signs of injuries that may cause the death. The other organs of the deceased were mostly intact without injury.

9. The learned APP also pointed out that the deceased had a meal before the death. It appears that, in this case, the period of a meal may not be relevant. The examination of the body while Post Mortem Report shows that she died due to "Asphyxia due to hanging". Post Mortem Report may be considered as prima facie evidence. The hanging may be possible as the deceased hanged in this case. During six years of the marriage, there were no complaints against the applicants about ill-treatment and harassment of the deceased. The possibility of committing suicide due to Bipolar Disorder and extreme poverty cannot be ruled out.

10. Analyzing the facts of the case with the Medical Jurisprudence, the Court believes it will not be suspected that the applicants killed/murdered the deceased. The material collected by the Investigating Officer proves it is suicide by hanging. In such cases, there is the least possibility of recovery of any intimidating evidence from the accused. Therefore, the application deserves to be allowed. Hence, the following order :

ORDER

- (i) The application is allowed.

- (ii) The interim protection granted to the applicants by the order dated 28.09.2022 stands confirmed on the same terms and conditions with an additional condition to attend the Police Station as and when called by the Investigating Officer on written notice.
- (iii) Criminal Application No. 3384 of 2022 is allowed.

(S. G. MEHARE, J.)

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vmk/-