

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1408 OF 2021

GANESH NIDHANA PATHADE

VERSUS

THE STATE OF MAHARASHTRA

.....
Advocate for Applicant : Mr. S. V. Suryawanshi
APP for Respondent-State : Mr. A. M. Phule
.....

CORAM : SMT.VIBHA KANKANWADI, J.

**Date of Reserving the Order :
20-04-2022**

**Date of Pronouncing the Order :
04-05-2022**

ORDER :

1. The applicant is apprehending his arrest in connection with Crime No.108 of 2021, registered with Police Station Narsi Namdeo, District Hingoli, for the offence punishable under Section 306, 323 r.w.34 of IPC.
2. Heard learned Advocate Mr. S. V. Suryawanshi for applicant and learned APP Mr. A. M. Phule for respondent-State. In order to cut short, it is stated that both of them have made submissions in support

of their respective contentions.

3. Perusal of the FIR would show that it has been lodged by one Savitrabai Phulaji Rodge who is the mother of the deceased Kanhopatra Phulagi Rodge. Kanhopatra got married to the present applicant on 21-06-2020. It is then stated that for 15 days Kanhopatra resided in her matrimonial home, but the relationship of Kanhopatra and her mother-in-law were not good, and therefore, Kanhopatra went to her mother's house and resided there for about a year. Thereafter, in the month of July 2021 her brother left her to matrimonial home. After residing for about five to six days the present applicant who is employed in Air Force and was placed at Halwara, Ludhiana District, State of Punjab, took her there and they were residing at that place. They resided there for about 1 ½ months and they came to the matrimonial home on 06-09-2021. On the next day the present applicant took Kanhopatra to her parents house and started saying that Kanhopatra is constantly in contact with one Balkrushna @ Ashrua Vajinath Rodge, and therefore, he asked for divorce. His request for divorce was refused by Kanhopatra and the informant. Meeting was held and then in presence of those persons Kanhopatra admitted that she used to

talk to Balkrushna Rodge, however, she said that the present applicant has taken her mobile and he used to chat with Balkrushna including the obscene material was forwarded. Her obscene photographs were sent by the present applicant to Balkrushna under pretext that she herself is sending them. After hearing all these things, it was decided that they would take divorce. They both had filed petition on 06-10-2021 for divorce and according to the informant on that day there was a divorce. However, even after the divorce, the present applicant is said to have sent /forwarded 98 recordings, 121 video calls, 27 sex videos and 1625 photographs out of which 633 are nude. When present applicant was questioned about the same, he gave threat that he will see as to how she gets married. Upon hearing the same, Kanhopatra committed suicide at 5.30 p.m on 13-10-2021.

4. After considering the contents of the FIR, the learned APP was asked to get report from Forensic Lab where the two mobile phones were sent which were produced by witness and one from the present applicant. Examination report has been given, however, it is to be noted that it is in text form and it says that in what form it contains. Further, investigation appears to have not been done or it may be

done in later point of time. The post mortem report gives cause of death as due to hanging. Now whether the present applicant had abated the commission of the crime is a question. The police papers show that petition for divorce was filed under Section 13-B of the Hindu Marriage Act. That means, both were agreeable to get divorce and it was filed on 01-10-2021 and the Judgment has been pronounced by learned Civil Judge, Senior Division, Hingoli on 13-10-2021. That means, on 11-10-2021 there was no divorce between them as stated in the FIR.

5. The statements of the witnesses would show that what was circulated and is said to be by the present applicant to the relatives of the deceased and informant is about the illicit relations between deceased and co-accused Balkrushna. The Forensic Lab report is at present is not sufficient to show that that obscene material was sent from the mobile phone of the accused. Now nothing is remained to be recovered from the present applicant because in view of the interim protection granted by this Court on 02-12-2021 it appears that he was arrested and was released on bail. Under such circumstances, by asking him to co-operate further in the investigation, his application can be allowed. Hence, following order.

ORDER

- 1) Application is hereby allowed.
- 2) The interim protection granted on 02-12-2021 by this Court to the applicant is hereby confirmed. In other words, in the event of arrest of the applicant Ganesh Nidhana Pathade, in connection with Crime No108 of 2021, registered with Narsi Namdeo Police Station, Taluka and District Hingoli, for the offence punishable under Section 306, 323 r.w.34 of IPC, he be released on P.R.Bond of Rs.20,000/- with solvent surety of like amount.
- 3) He shall not tamper with the evidence of prosecution in any manner.
- 4) He shall not visit and contact informant and witnesses from Jambhrun Rodge, Taluka Sengaon, District Hingoli.

(SMT. VIBHA KANKANWADI)
JUDGE

vjg/-.