

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.1439 OF 2021

TUKARAM GOPAL GHONSHETWAD

VERSUS

THE STATE OF MAHARASHTRA

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Mr. A.R. Gaikwad, Advocate for the applicant

Mr. A.M. Phule, APP for the respondent

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CORAM : SMT. VIBHA KANKANWADI, J.

RESERVED ON : 18th JANUARY, 2022

PRONOUNCED ON : 16th FEBRUARY, 2022

ORDER :

1 The applicant is apprehending his arrest in connection with Crime No.244/2021 dated 27.10.2021 registered with Aundha Nagnath Police Station, Dist. Hingoli, for the offence punishable under Section 306, 498-A, 323, 504 read with Section 34 of the Indian Penal Code, 1860.

2 Heard learned Advocate Mr. A.R. Gaikwad for the applicant and learned APP Mr. A.M. Phule for the respondent.

3 It has been vehemently submitted on behalf of the applicant that

the applicant is the husband. He got married to Shital on 14.05.2019. She was the daughter of informant Govind Sambhaji Kallapalle. The applicant was serving as Lineman with Maharashtra State Electricity Distribution Company Limited. Shital committed suicide by hanging on 24.10.2021. In the First Information Report, it has been alleged that the present applicant used to harass the deceased. So also, parents, sister and brother of the applicant used to harass deceased Shital, on the ground that she is not cooking properly, not behaving properly and her father has not given proper dowry. She was mentally and physically harassed. Thereafter, she was harassed for purchasing motorcycle and accordingly, the father of the deceased had given him motorcycle. Then, applicant was terminated from the service and thereafter the deceased was harassed on the count that she should bring amount from her father. Informant says that he collected the amount from people to the extent of Rs.4,00,000/- and gave it to the applicant and his family members. Thereafter, he had given second-hand car to the applicant. He received phone call at about 11.00 p.m. on 23.10.2021 and informed that the applicant is taking suspicion over her character and assaulting her. Informant told that he would reached to her place next day morning, but she should not worry, however, he received phone call in the morning that Shital has committed suicide. Taking into consideration these allegations, the physical custody of the applicant is not required for the

purpose of investigation. The applicant has not committed any offence. It appears that the father, due to the sudden death of his daughter, has given the First Information Report in anguish. The applicant has produced on record documents to show that even prior to the marriage he had purchased motorcycle on 04.05.2019 and it is with the help of loan from IndusInd Bank and the said motorcycle is hypothecated to that Bank. He has also produced on record his statement of account with IndusInd Bank to show that the installment is regularly cut from his salary.

4 Learned APP strongly opposed the application and submitted that the poor girl, who was required to commit suicide within a period of two years, was harassed by the applicant mainly and his family members, physically as well as mentally. The instances have been given as to what was the reason for the harassment. The Postmortem Report gives provisional opinion as to cause of death as – hanging leading to Asphyxia leading to cardio respiratory Arrest leading to death. Therefore, the physical custody of the applicant is necessary, as there is prima facie case against the applicant.

5 It is to be noted that the present applicant appears to be serving with M.S.E.D.C.L. Though there is statement that his service was terminated, the applicant has contended that he is still in service. The marriage was performed on 14.05.2019 and the motorcycle has been purchased by the

informant on 04.05.2019. It is not the case of the informant that as a demand prior to the marriage he had purchased that motorcycle. In fact, the motorcycle appears to have been purchased by taking loan from IndusInd Bank and the installments are cut regularly. If we minutely consider the First Information Report, then, the duty of the applicant was at Aundha Nagnath, Dist. Hingoli, whereas the matrimonial home of the deceased i.e. the place where the parents of the applicant were residing is Kolambi, Tq. Naigaon, Dist. Nanded. In the First Information Report the informant states that the husband and wife i.e. the applicant and his wife were only resides at Nageshwar Nagar in Aundha Nagnath. He states that for about four months the deceased was treated properly by the applicant and thereafter he was harassing her by raising suspicion over her character. It appears that the deceased used to go to her parental house often and allegedly inform all the acts to her father and then the father used to console her and send her for cohabitation. Then, the informant has stated that all the accused persons used to harass deceased. In fact, accused No.4 Sharjabai is the married sister of the applicant residing at Daregaon, Tq. Naigaon, Dist. Nanded. Time and again, even the Hon'ble Apex Court has expressed that the provisions of Section 498-A of the Indian Penal Code misused to include the relatives of the husband also. The informant further states that he had provided amount of Rs.4,00,000/- as well as second-hand car to the applicant. The police

papers do not show that any documentary evidence to that effect was produced by the informant before the police. Therefore, taking into consideration the allegations made, the physical custody of the applicant is not required and, therefore, the interim protection granted by this Court earlier deserves to be confirmed. Hence, following order.

ORDER

1 Application stands allowed.

2 The ad-interim protection, granted by this Court earlier to applicant vide order dated 23.12.2021, is hereby confirmed and made absolute. In other words, if the applicant is not formally arrested, in the event of arrest of the applicant viz. **Tukaram Gopal Ghonshetwad**, in connection with Crime No.244/2021 dated 27.10.2021 registered with Aundha Nagnath Police Station, Dist. Hingoli, for the offence punishable under Section 306, 498-A, 323, 504 read with Section 34 of the Indian Penal Code, 1860, he be released on PR. of Rs.50,000/- (Rupees Fifty Thousand only) with two solvent sureties of Rs.25,000/- (Rupees Twenty Five Thousand only) each.

3 The applicant shall not indulge in any criminal activity nor he should tamper with the prosecution evidence, in any manner.

4 He should cooperate with the investigation and shall attend the concerned Police Station, on every Sunday between 10.00 a.m. to 02.00 p.m., till filing of charge sheet.

(Smt. Vibha Kankanwadi, J.)

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