

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

933 BAIL APPLICATION NO.1696 OF 2021

**VIKAS RAOSAHEB SURYAWANSHI
VERSUS
THE STATE OF MAHARASHTRA**

...
Advocate for Applicant : Mr. Ghanekar Nilesh S.
APP for Respondents/State : Mr. S.B. Narwade
...

**CORAM : M.G. SEWLIKAR, J.
DATE : 20th January, 2022**

PC.:-

By this application, applicant is seeking his release on bail in connection with Crime No.394/2021 under Section 306 read with Section 34 of the I.P.C. registered with Sangamner Taluka Police Station, District Ahmednagar.

2. Informant is the brother of Bapu Kadam (since deceased). Bapu Kadam was married to one Laxmibai Baban Raut on 16th March, 2015. It is alleged that said Laxmibai had illicit relations with more than one person. When this fact was brought to the notice of the parents of Laxmibai, her parents and others had beaten Bapu Kadam on 7th October, 2018, on account of which N.C. was registered on the complaint of Bapu Kadam.

3. It is further alleged in the FIR that on 18th July, 2021 deceased-Bapu received text messages on WhatsApp number from mobile nos.7276182835, 7875298775. These text messages read that wife of Bapu i.e. Laxmibai had relations prior to her marriage with many boys and even after marriage those relations are being continued. The sender had also texted a message that Laxmibai had illicit relations with the sender also. He had forwarded images also to deceased-Bapu. Thereafter, Laxmibai started demanding divorce from applicant. Again on 21st August, 2021, deceased-Bapu received a video clip on his WhatsApp in Devnagari script which read thus: “आता हा कोण नवरा आहे तिचा आता तुला काय करायचे ते कर”. During investigation, it transpired that applicant had sent these WhatsApp messages to the deceased.

4. It is further alleged that on 23rd August, 2021 at 1.30 am deceased-Bapu consumed pesticide called Monsul-36. Bapu was shifted to Medicover Hospital, Sangamner. However, Bapu died on 31st August, 2021. Thereafter, on 10th September, 2021 this FIR came to be registered.

5. Learned counsel Shri Ghanekar for the applicant submits that there is no record to show that these WhatsApp messages were forwarded to the deceased by applicant. Screenshots of those WhatsApp messages are annexed with the charge-sheet. He submits that applicant had no intention to

bring about suicide of the deceased. He only wanted to alert the deceased. He further submits that the last WhatsApp message sent by deceased to his father in law shows that deceased committed suicide because of his wife. He submits that there is delay in lodging the FIR for which no explanation is forthcoming.

6. Learned APP submits that applicant had sent these messages to the deceased. Applicant is the person who had illicit relations with the wife of the deceased. He submits that applicant has no concern with the deceased even then he kept on sending messages to the deceased. At one time, deceased had asked him not to send messages. Deceased had blocked his number. Even then applicant kept on sending messages from other sim cards. He submitted that deceased had lodged complaint against the number from which he had received messages. He submits that because of these messages life of applicant was made a hell. Therefore, applicant had no other alternative but to commit suicide. He, therefore, prayed for rejection of application.

7. It is true that deceased had filed a NC against holder of the sim card from which he used to receive messages. Screenshots of the messages annexed with the charge-sheet show that wife of the applicant had illicit relations with more than one person including the cousin of the deceased.

Some messages indicate that since deceased came to know of her illicit relations she would behave properly with the informant. The last message which was sent by deceased before commission of suicide to his father in law read that he is committing suicide because of his wife i.e. daughter of the father in law. One message shows that deceased had intimated the sender that he was not interested in his wife as deceased had deserted his wife. All these circumstances indicate that there was no intention on the part of the applicant to bring about the suicide of the deceased. The main reason for suicide of the deceased was the illicit relations of his wife with several people.

8. Moreover, there is no evidence to show that these messages were sent by the applicant. Learned APP submits that from the CDR records it is clear that some of the messages were sent by applicant because the IMEI number of mobile seized tally with the CDR records. However, those CDRs are not part of charge-sheet. In addition to that there is no certificate under Section 65-B of the Indian Evidence Act. Therefore, at this stage it cannot be said that these messages were sent by applicant. Moreover, there is delay of ten days in lodging the FIR. No explanation is forthcoming for the same. In this view of the matter, I am inclined to release the applicant on bail. Hence the following order is passed:

ORDER

- I) Application is allowed.
- II) Applicant be released on PR bond of Rs.50,000/- with one solvent surety in the like amount, in connection with Crime No.394 of 2021 under Section 306 read with Section 34 of the I.P.C. with Sangamner Taluka Police Station, District Ahmednagar on condition that he shall not tamper the prosecution evidence.
- III) These observations are made only for the disposal of this application and the learned trial Court shall not get influenced by these observations and can come to its independent conclusion during trial.

[M.G. SEWLIKAR, J.]