

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.7 OF 2022

Shubhangi Avinash Deshmukh & Anr. Applicants

versus

State of Maharashtra Respondent

**WITH
INTERIM APPLICATION NO.138 OF 2022
IN
ANTICIPATORY BAIL APPLICATION NO.7 OF 2022**

Aruna Mohan Deshmukh Applicant/
Intervenor

IN THE MATTER BETWEEN -:

Shubhangi Avinash Deshmukh & Anr. Applicants

versus

State of Maharashtra Respondent

.....

- Mr.Milind Deshmukh, Advocate for Applicant.
- Mr.Rajesh Chodankar i/b. Nitesh J. Mohite, Advocate for Intervenor.
- Mr.P. H. Gaikwad, APP for the State/Respondent.

MANUSHREE
V
NESARIKAR
Digitally
signed by
MANUSHREE
V
NESARIKAR
Date:
2022.01.17
16:00:42
+0530

CORAM : SARANG V. KOTWAL, J.
DATE : 14th JANUARY 2022
(through video conferencing)

P.C. :

1. The Applicants are seeking anticipatory bail in connection with C.R.No.604/2021 registered with Kalyan Taluka Police Station, Thane Rural, under sections 306 r/w 34 of the Indian Penal Code.
2. Heard Mr.Milind Deshmukh, learned counsel for the Applicant, Mr.Rajesh Chodankar, Advocate for Intervenor and Mr.P. H. Gaikwad, learned APP for the State.
3. The FIR is lodged by the mother of the deceased. She has stated that the deceased got married with the Applicant No.1 in May 2018. During their stay together they were blessed with two sons, elder son is 2 years and 10 months old as of today and the younger son is two months of age.
4. The FIR mentions that after the marriage, the Applicant No.1 was after the deceased to stay separately from his joint family. To ensure cordial relations, the informant and

her family members agreed to the deceased and the Applicant No.1 residing separately. The FIR mentions that there used to be some marital discord between the couple. When the Applicant No.1 got pregnant for the second time, she went to her parental house. She delivered her younger son there on 23/10/2021. It is the case in the FIR that she did not come back immediately to reside with the deceased. She was not responding to phone calls made by the deceased. The deceased was upset. He noticed that the Applicant No.1 had taken away her ornaments with her. On 12/11/2021 the deceased Avinash committed suicide by hanging himself. There was a suicide note left behind by him. In that note he had blamed both the Applicants for the steps he was taking. On this basis, the FIR is lodged. Applicant No.2 is Applicant No.1's mother.

5. Learned counsel for the Applicants submitted that the allegations in the order did not amount to the offence punishable under section 306 of the IPC. The Applicant No.1 has very small children. One of them is an infant and the other one

is only 2 years 10 months old. He submitted that the deceased has committed suicide because of marital discord and none of the Applicants are directly responsible.

6. Learned counsel for the Intervenor/first informant as well as learned APP opposed this application. Both of them relied on the suicide note left behind by the deceased.

7. I have considered these submissions. The suicide note does mention that he was taking that step because of both the Applicants. There are allegations that the Applicant No.1 was having illicit relations with her cousin and that was the cause of marital discord. It is mentioned that the Applicant No.1 had forced the deceased to reside separately from his family. It is also mentioned that both the Applicants had caused mental harassment to him. The suicide note does blame both the Applicants for the step he was taking. However, whether the Applicants had committed any act within the meaning of abetment as defined u/s 107 of the IPC, will have to be decided at the trial. At this stage, the allegations are vague. The

allegations that the Applicant No.1 was having illicit relations that her cousin, is not really supported by any cogent material. Even otherwise apart from that, there is no positive act attributed to either of the Applicants, which would have attracted section 107 r/w 306 of IPC. The history shows that the deceased and the Applicant No.1 were residing as husband and wife and they were blessed with two children, the younger son was born just two months prior to the incident. This also is a factor in favour of the Applicant No.1. Even otherwise both the Applicants are ladies. The Applicant No.1 has very young children to look after. In the background of these facts, custodial interrogation of the Applicants is not necessary. They can be protected by an order of anticipatory bail. However, they will have to, of course, co-operate with the investigation.

8. Hence, the following order :

ORDER

- (i) In the event of their arrest in connection with C.R.No.604/2021 registered with Kalyan Taluka

Police Station, the Applicants are directed to be released on bail on their furnishing PR bond in the sum of Rs.30,000/- (Rupees Thirty Thousand Only) each, with one or two sureties each, in the like amount.

- (ii) The Applicants shall attend the concerned Police Station as and when called and shall cooperate with the investigation.
- (iii) Anticipatory Bail Application as well as Interim Application stand disposed of accordingly.

(SARANG V. KOTWAL, J.)