

Shailaja

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
ANTICIPATORY BAIL APPLICATION NO.2338 OF 2019**

Rahul Kumar] **Applicant**

Vs.

The State of Maharashtra] **Respondent**

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Mr. Abad Ponda, Senior Advocate a/w Mr. Manoj Harit a/w Mr. Akhil Kupade i/b Manoj Harit & Co, for Applicant.

Ms. Veera Shinde, A.P.P for Respondent-State.

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CORAM : PRITHVIRAJ K. CHAVAN, J.

DATE : 17TH FEBRUARY, 2022.

P.C.

1. This is an application under section 438 of the Code of Criminal Procedure by the applicant against whom C.R. No.0321 of 2018 dated 24th August 2018 has been registered with Vashi Police Station of the offence punishable under section 306 of the Indian Penal Code.

2. Shorn of unnecessary details, a few relevant facts are as follows.

3. The applicant is an Officer of Indian Revenue Service (IRS) presently posted as Deputy Commissioner at Customs Office, Nhava-Sheva, Navi Mumbai. One Mr. Nishu Raghav Singh, who is

the brother of deceased Ms. Nidhi Shatrunjay Kumar (for short 'Nidhi') has lodged a report against the applicant allegedly abetted his sister Nidhi to commit suicide on 21st August, 2018.

4. It is alleged by the complainant that Nidhi committed suicide because the applicant had informed Nidhi's father about her irritating calls at odd hours of night and harassment by her and that the applicant threatened Nidhi that he would also inform about her behaviour to her husband.

5. On the other hand, it is the contention of the applicant that he met Nidhi around April- May, 2018 via Facebook. Both hail from *Bihar*. When Nidhi came to know that applicant had cleared U.P.S.C exam and currently working as an officer of Indian Revenue Service and is functioning with Ministry of Finance, Government of India, she started communicating with him frequently under the garb that she too was preparing for Bank Probationary exam and, therefore, sought guidance of the applicant. The relations turned into friendship. Nidhi would frequently trouble the applicant by informing him about her personal disturbed and unhappy family life. She also informed him that she had quitted her job with ICICI Bank only in order to clear IBPS/RRB examinations. Initially, it was an on-line friendship. Thereafter, the applicant and Nidhi met on 5 to 6 occasions only with an intention of guiding her for upcoming exams.

6. It is the contention of the applicant that Nidhi started showing obsessive impulses. She started sneaking into his mobile

as well as his personal life. She started behaving as if she had an affair with the applicant. Despite warning her on several occasions to maintain the decorum, Nidhi ignored the same. She continued telling the applicant about awful and abusive nature of her husband and that there was nothing good and she is not happy in her relations with the husband. Nidhi had also shared cell phone number of her father and husband with the applicant who were aware of her nature and lifestyle choice. She informed the applicant that she required his moral support at that juncture of life as she was in a very vulnerable state and needed to qualify the exam for better life. Her behaviour was unstable and erratic, which bordered on obsession, so the applicant gave one or another excuse to avoid meeting her personally. However, calls and messages frequented and that became a nuisance for the applicant. The tone and tenor of the messages changed dramatically. The messages and calls began containing threats of self physical harm, harm to the reputation of the applicant etc. if her messages and calls remained unanswered. The applicant was forced to continue the talks with her because of her threats of harming herself or at a later stage defaming the applicant.

7. It is further contended by the applicant that Nidhi started levelling false allegations and abusing both applicant and his wife by cursing him that he will never be able to have a child with his wife and committing suicide etc.

8. The applicant submits that he is a reputed officer of the Indian Revenue Service. Due to suicide of Nidhi, an offence came

to be registered against him as above, however, he had been fully co-operating with the Investigating Officer as and when required. He has absolutely no role to play, in any manner, in the suicidal death of the deceased. There is *prima facie* no material with the Investigating Officer nor custodial interrogation of the applicant is required. Rejection of his application seeking anticipatory bail by the Sessions Judge has occasioned grave miscarriage of justice and has put his personal liberty in jeopardy. She further collaterally damaged the career prospects and very means of livelihood as Deputy Commissioner Customs as well as his personal life. Even the basic ingredients of section 306 of I.P.C are not attracted in the given set of facts and circumstances.

9. I heard Mr. Ponda, the learned Senior Advocate for some time who reiterated the salient aspects of the case. Ms. Shinde, learned A.PP is fair enough to submit that despite granting interim protection to the applicant by this Court on 4th November, 2019, investigation has not been completed.

10. It is brought to my notice by learned Senior Counsel Mr. Ponda that the Division Bench of this Court by an order dated 4th October, 2019 restrained the respondent-Police Station from filing charge-sheet in the present C.R. The Investigating Officer is not present today to assist the Public Prosecutor as to why till today there is no further progress, in the sense, whether the Investigating Agency indeed wants to file a charge-sheet against the applicant or otherwise. The learned A.PP is fair enough to submit that custodial interrogation of the applicant is not required.

11. Thus, having considered the entire facts and circumstances on record, I am of the view that interim relief granted by this Court on 4th November, 2019 needs to be confirmed in view of the fact that the applicant is an officer of IRS posted at Bombay and has been assisting the Investigating Officer. There is no question of his abscondence. The applicant shall, however, continue to assist the Investigating Officer as and when summoned.

12. In view of the aforesaid observations, the application stands disposed of.

[PRITHVIRAJ K. CHAVAN, J.]