

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
NAGPUR BENCH : NAGPUR

CRIMINAL APPLICATION (ABA) NO.582 OF 2022

(DEVENDRA DIGAMBAR BANSOD ..VS.. STATE OF MAH. THR. PSO PS AJNI, NAGPUR)

Office Notes, Office Memoranda of Coram,
appearances, Court's orders of directions
and Registrar's orders

Court's or Judge's orders

Shri R.M. Daga, Advocate for Applicant.
Shri T.A. Mirza, A.P.P. for Non-applicant/State.
Shri P.A. Nemade, Advocate to assist prosecution.

CORAM : ANIL S. KILOR, J.
DATED : AUGUST 22, 2022.

1. Heard.
2. By this application under Section 438 of the Code of Criminal Procedure the applicant is seeking pre-arrest bail in Crime No.500 of 2022, registered with Police Station, Ajni, Nagpur for the offence punishable under Sections 306 of the Indian Penal Code (IPC).
3. The learned counsel for the applicant submits that even if the allegations made in the First Information Report (FIR) are taken on its face value, it is doubtful whether Section 306 of the IPC would attract in this case and, therefore, he submits that custodial interrogation of the applicant is not necessary, as such he prays for grant of pre-arrest bail.
4. On the other hand, learned A.P.P. strongly opposed the application and he prays for rejection of the same.

5. Learned counsel for the complainant who is assisting the prosecution in this case, submits that, the applicant is tampering the record and even though in this case the Police ought to have added Section 498-A and another offences considering the allegations made in the FIR, Police are helping the applicant. He further submits that even the Police are providing documents to the applicant before filing of the charge-sheet. It is submitted that considering the above referred facts, if the applicant is granted bail, he may tamper with the prosecution evidence. Accordingly, he prays for rejection of the present application.

6. I have perused the case diary and also the FIR.

7. On perusal of the case diary, it can be seen that the applicant was jobless and not earning and the deceased on many occasions expressed her frustration to her family members. Thus, it appears that she was under frustration and out of frustration she committed suicide. Hence, even if the allegations made in the FIR are taken on its face value, *prima facie*, it is doubtful whether the Section 306 of the IPC would apply in this case.

8. As far as, the submission of the learned counsel for the complainant that the applicant has tampered the record and police are favouring the applicant, to examine such allegations the appropriate forum is different. As far

as the apprehension expressed by the learned counsel for the complainant that if the applicant is granted pre-arrest bail, he may tamper with the prosecution evidence, the said apprehension can be addressed by imposing certain stringent conditions, accordingly I pass the following order :

- i) The application is allowed.
- ii) The order dated 3rd August, 2022 granting *ad-interim* anticipatory bail to the applicant is hereby confirmed.
- iii) The applicant shall attend the concerned Police Station as and when his presence is required.
- iv) The applicant shall not pressurize the prosecution witness or tamper with the prosecution evidence.
- v) The complainant and State is at liberty to apply for cancellation of bail in case of breach of any of the conditions.

The criminal application is **disposed of** accordingly.

Pending application(s), if any, shall stand disposed of.

JUDGE

Kirtak.