

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

CRIMINAL APPEAL NO. 428 OF 2021

Archana W/o Arvind Rathod

Versus

State of Maharashtra, through P.S.O., P.S. Digras, Dist. Yavatmal and another

Office Notes, Office Memoranda of
Coram, appearances, Court's Orders
or directions and Registrar's order

Court's or Judge's Order

Shri A.V. Band, Advocate for the appellant.

Shri M.J. Khan, A.P.P. for the respondent No.1/State.

Shri S.R. Jaiswal, Advocate for the respondent No.2(appointed).

CORAM : ANIL S. KILOR, J.

DATED : 23/02/ 2022

1. This appeal is arising out of rejection of anticipatory bail application vide order dated 24.09.2021 passed by the Additional Sessions Judge, Darwa in Criminal Bail Application No.131 of 2021 in connection with Crime No.1069 of 2021 registered with Police Station Digras, for the offence punishable under sections 306, 384, 385, 506 of the Indian Penal Code and Section 3(2), 3(v) of the Scheduled Castes and Scheduled Tribes (prevention of Atrocities) Act, 1989.

2. Heard learned counsel for the respective parties.

3. Shri A.V. Band, learned counsel for the appellant submits that on 07.11.2021 the charge-sheet was filed and as such his custody is no more required. He submits that the deceased committed suicide by consuming poison and there are past incidences which were reported to the Police Station wherein the deceased had threatened to the Officer of Nagar Parishad, Digras to commit suicide by consuming poison and after consuming poison, he was hospitalized by the Staffs of Nagar Parishad, Digras. He therefore, submits that the allegations of instigation are false and there was no instigation by the appellant to deceased who committed suicide. He further submits that even on the face of the FIR, Section 306 does not attract.

4. Further, he submits that there are no allegations that because the deceased was belonging to Scheduled Caste, he was harassed and instigated to commit suicide. He therefore, submits that even the provisions of Atrocities Act would not attract.

5. On the other hand, learned A.P.P. submits that the deceased had committed suicide in front of the house of the appellant. The learned A.P.P. is not disputing the fact of filing of the charge-sheet. He

submits that as sufficient material is available on record, the appeal may not be allowed.

6. Shri Jaiswal, learned counsel for the respondent No.2-complainant, opposes the application and reiterates the submissions made by the learned A.P.P. and prays for dismissal of the appeal.

7. After considering the allegations made in the FIR and in view of the fact that the charge-sheet has already been filed in this case, the custody of the appellant is no more required. This Court while granting *ad-interim* bail to the appellant has recorded the reasons relating to provisions of Scheduled Castes and Scheduled Tribes Act.

8. In that view of the matter, I am of the considered view that *prima facie* the appellant has made out a case for grant of bail in the event of her arrest. Accordingly, I pass the following order :

a) The appeal is allowed.

b) The order passed by Additional Sessions Judge, Darwa, in Criminal Bail Application No.131 of 2021 on 24.09.2021, is hereby quashed and set aside.

c) The order passed by this Court on 12.10.2021, is confirmed.

d) The appellant shall attend the Police Station as and when her presence is required.

e) Shri S.R. Jaiswal, learned counsel for the respondent No.2 appointed by the High Court Legal Services Sub-Committee, Nagpur, is entitled for professional charges for arguing the appeal. The High Court Legal Services Sub-Committee, Nagpur is directed to pay his fees as permissible to him.

The criminal appeal is disposed of, accordingly.

[ANIL S. KILOR, J.]

CHETAN
LOPCHAND
DHAKATE

Digitally signed
by CHETAN
LOPCHAND
DHAKATE
Date:
2022.02.24
19:08:56 +0530