

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

CRIMINAL APPLICATION (ABA) NO.843OF 2021

Vaishali D/o Warlu Kasare

Versus

The State of Maharashtra, through P.S.O., P.S. Kothari, Dist. Chandrapur

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

Court's or Judge's Order

Shri K.S. Narwade, Advocate for the appellant.

Shri S.A. Ashirgade, A.P.P. for the respondent/State.

Shri A.C. Dharmadhikari, Assist to prosecution.

CORAM : ANIL S. KILOR, J.

DATED : 17th FEBRUARY, 2022

1. The applicant by way of present application filed under Section 438 of the Code of Criminal Procedure, is praying for grant of anticipatory bail in Crime No.186 of 2021 dated 21.10.2021 registered with Police Station Kothari, District Chandrapur on a complaint of one Govindrao Bapurao Kadam who is the father in law of the applicant, against the applicant for the offence punishable under Section 306, 504 and 506 of the Indian Penal Code.

2. It is the case of the prosecution that the complainant lodged a complaint stating therein that his son Suraj got acquainted with the applicant and got married on 09.06.2020. There was frequent quarrel

between the deceased Suraj and the applicant. The applicant used to threaten the deceased Suraj to file a false case under Scheduled Caste and Scheduled Tribe (Prevention of Atrocities) Act, 1989 against the family. It is alleged that because of harassment at the hands of applicant, the deceased Suraj committed suicide by setting himself on fire. Accordingly, the offence was registered for the offence punishable under Sections 306, 504 and 506 of the Indian Penal Code.

3. I have heard Shri K.S. Narwade, learned counsel for the applicant and Shri S.A. Ashirgade, learned A.P.P. for the respondent/State and Shri A.C. Dharmadhikari, learned counsel of the complainant.

4. Shri Narwade, learned counsel for the applicant submits that even on the face of allegations made in the First Information Report, Section 306 does not attract in this case. He submits that there was no instigation of any type by the applicant to the deceased Suraj to commit suicide. Though there was marital discord, there was no such intention. He further submits that it was an accident and not a suicide. However, after the death of the deceased, the case of the accident has been converted into case of commission of suicide.

5. He submits that the applicant has incurred all the medical expenses during the period when deceased Suraj was hospitalized.

5. Shri Narwade, learned counsel for the applicant states that the applicant is in Government Service, there is no possibility of absconding and as this Court directed the applicant as one of the conditions of grant of ad-interim bail vide order dated 09.12.2021, to attend the Police Station when she was called she complied with it. He submits that there was no complaint of misuse of liberty by the applicant. Accordingly, he prays for confirmation of ad-interim bail granted vide order dated 09.12.2021.

6. On the other hand, Shri A.S. Ashirgade, learned A.P.P. points out from the police diary, which is made available for perusal that there are statements recorded by the police during the investigation wherefrom it, can be seen that there was quarrel between applicant and the deceased Suraj before the alleged incident. The learned A.P.P. has drawn attention to the WhatsApp messages exchanged between the applicant and the deceased Suraj and submits that the sufficient material is collected during the course of the investigation, which shows the involvement of the applicant in the alleged

offence. He further submits that the custody of the applicant is required for further investigation.

7. Shri A.C. Dharmadhikari, learned counsel who is appearing on behalf of the complainant with a request to assist the prosecution, submits that it is clear case of Section 306. It is submitted that due to continue harassment and torture by the applicant, the deceased Suraj had committed suicide. He submits that the sufficient material is there showing that there was harassment to the deceased Suraj at the hands of the applicant. He therefore, prays that the application may be rejected.

8. I have perused the contents of the First Information Report and also case diary. From the WhatsApp messages exchanged between the applicant and deceased Suraj, it can be seen that there was marital discord. It is also reveal that there are statements showing that a quarrel had taken place between the applicant and the deceased Suraj before alleged incident.

However, nothing has been shown to this Court which could *prima facie* show the instigation by the applicant to the deceased to commit suicide to attract the offence under Section 306.

9. The applicant was on ad-interim bail and she has attended the Police Station whenever she was called. There is no complaint about misuse of liberty. Moreover, the applicant is in government service and therefore there is no possibility that the applicant would abscond.

10. In that view of the matter, I am opinion that this is a fit case for grant of anticipatory bail. Accordingly, I pass the following order:

- a) The criminal application is allowed.
- b) The ad-interim bail granted by this Court vide order dated 09.12.2021 is confirmed.
- c) It is made clear that whenever the police requires presence of the applicant, the applicant shall attend the police station.
- d) It is further made clear that whenever her presence is required, a written intimation of 24 hours be given to the applicant.

The criminal application is disposed of, accordingly.

[ANIL S. KILOR, J.]