

IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO.137 OF 2023

Vanita w/o Madhav Giri

... APPLICANT

VERSUS

The State of Maharashtra & anr.

... RESPONDENTS

.....
Mr. N.U.Telgaonkar, Advocate for the applicant
Mr. N.T. Bhagat, A.P.P. for respondents
.....

CORAM : R.G. AVACHAT, J.

DATE : 17th MARCH, 2023

ORDER :

Heard. This is an application for bail under Section 438 of the Code of Criminal Procedure. The applicant claims to have apprehension of arrest in connection with C.R. No.264/2022, registered with Kingaon Police Station, District Latur for the offence punishable under Sections 306, 452 read with Section 34 of the Indian Penal Code.

2. The First Information Report (F.I.R.) has been lodged by a widow of the deceased on 10/11/2022. It has been alleged in the F.I.R. that the deceased Rajendra was the husband of the informant. The couple was blessed with four

children, two sons and two daughters. Swapnil was one of the sons of the deceased. He (Swapnil) was alleged to have extra-marital relationship with the applicant herein. The applicant along with co-accused Sangita, Shalubai, Sachin, Madhav and two unknown female, on 29/10/2022, had come together to the house of the informant and questioned where Swapnil was. All of them made some scene at the informant's house. On 30/10/2022, a phone call was received from Ahmedpur Police Station, directing to secure presence of Swapnil at the police station. The deceased Rajendra, his brother Madhav and others, therefore, took Swapnil to the police station and returned back in the evening. The deceased told the informant that Swapnil had physical relationship with one lady and those persons are demanding Rs.5 Lakhs for settlement of the matter. They also threatened the deceased that if their demand was not met, a complaint of rape would be lodged against Swapnil and the deceased as well. The deceased was under tremendous stress thereby. He was not financially sound to meet the demand. The applicant and co-accused had exerted such a pressure, the deceased was left with no option but to commit suicide by consuming insecticide on 4/11/2022. The crime, therefore, came to be registered against the applicant and the co-accused.

3. The learned counsel for the applicant would submit that the applicant is a woman. The applicant has lodged the police report alleging Swapnil to have sexually exploited her with threats of making her nude photographs viral. The deceased did not leave behind suicide note. There is delay of not less than 6 days in lodging of the F.I.R. Co-accused have been arrested. No custodial interrogation of the applicant is required. She has been protected by order dated 2/2/2023. He, therefore, urged for grant of the application.

4. The learned A.P.P. would, on the other hand, submit that, because of the involvement of the applicant and the co-accused, the deceased committed suicide. It is a preliminary stage of investigation. Custodial interrogation of the applicant is required. He, therefore, urged for rejection of the application.

5. Considered the submissions advanced. Perused the F.I.R. and the related police papers. Vide order dated 2/2/2023, the applicant was granted interim protection. It appears that, the applicant had an extra-marital relationship with the son of the deceased. When this fact came to the knowledge of the husband of the applicant, he is said to have driven her out of his house. She approached the concerned

police station against the son of the deceased. The police had, therefore, asked the deceased and his brothers to produce Swapnil before the police station. The deceased did not leave behind suicide note. The informant is the widow of the deceased. According to her, the deceased had told her that the applicant and co-accused were demanding Rs.5 Lakhs for settlement of the matter. All of them had visited the informant's residence on 29th October in search for Swapnil. They had made a scene at the informant's residence by 9.00 p.m. It is also the case of the informant that the applicant and others were threatened of lodging false F.I.R. of offence of rape against Swapnil and the deceased if the demand of Rs.5 Lakhs was not met. The deceased appears to have been under stress thereby. He, therefore, committed suicide.

6. It is very unfortunate that the deceased did end his life. He did not leave behind suicide note. Nature of evidence is oral one. The applicant is a woman. Considering the nature of offence, her custodial interrogation appears to be not warranted. In view of the same, the Court is inclined to allow the application. Hence the order :

ORDER

(i) The application is allowed.

(ii) The interim order dated 2/2/2023 is made absolute.

(iii) The applicant shall not tamper with the prosecution evidence and shall appear before the investigating officer as and when required for the purpose of investigation.

(R.G. AVACHAT, J.)

fmp/-