

**IN THE HIGH COURT OF JUDICATURE OF BOMBAY
BENCH AT AURANGABAD**

ANTICIPATORY BAIL APPLICATION NO. 538 OF 2023

GANESH RAMDAS PAWAR
VERSUS
THE STATE OF MAHARASHTRA

...
Advocate for Applicant : Mr. Narwade Narayan B.
APP for Respondent : Mr. S.N. Morampalle

CORAM : R.M. JOSHI, J.
DATE : 12th June, 2023

PER COURT :

1. Heard.
2. Applicant is apprehending arrest in connection with FIR No. 257 of 2023, registered with Rahuri Police Station, Taluka Rahuri, District Ahmednagar, for the offences punishable under Sections 306, 323, 504, 506 read with 34 of IPC.
3. Informant is sister of deceased Rahul. It is alleged by the informant that Rahul was employed in the flower shop of applicant situated at Shani-Shinganapur. It is further alleged that the applicant had illicit relations with wife of Rahul and that Rahul was being abused and assaulted by applicant and others. The informant has narrated incident dated 15th February, 2023, in which the deceased was assaulted by applicant and co-accused. Thereafter, on 19th February, 2023, Rahul committed suicide by

hanging himself in the house. It is further stated in the report that on 03rd March, 2023, maternal aunt of the wife of deceased had asked for money and threatened informant. On these allegations, crime is registered against the applicant.

4. Learned counsel for the applicant states that there is no evidence on record in order to show that the applicant has committed or abetted the act of commission of suicide by deceased Rahul. It is his submission that there is unexplained delay in lodging the FIR and considering the fact that the informant herein was a guarantor for repayment of loan obtained by deceased, the possibility of lodging of false report cannot be ruled out.

5. Learned APP opposed the said submissions by referring to the statement of Tushar Adhav who claims to have witnessed incident dated 15th February, 2023, wherein, the applicant and co-accused assaulted deceased. He submits that there is sufficient material on record to indicate that there was illicit relations between wife of deceased and present applicant and on that count deceased was harassed and beaten frequently. Thus according to him, it is not the case wherein the anticipatory bail can be granted to the applicant.

6. The deceased has committed suicide on 19th February, 2023. First Information Report is lodged on 04th March, 2023. Report indicates that there is no explanation given for the delay caused in lodging the same. Apart from the allegation that the wife of deceased had illicit relations with the applicant, it is mainly alleged that on 15th February, 2023, there was an incident of assault on the deceased committed by the applicant and co-accused. In this regard, perusal of the investigation papers shows that except for the statement of Tushar Adhav, there is no statement recorded by the Investigating Officer indicating occurrence of incident dated 15th February, 2023. Pertinently, this Tushar Adhav is husband of the informant. Thus, he is interested witness. Not only that there is no independent witness who has seen the incident on 15th February, 2023, however, there is no explanation as to why the said incident also was not reported to the police station. Thus, at this stage, this Court finds substance in the contention of the learned counsel for applicant that the informant and her husband had lodged false FIR against present applicant.

7. Even if, the case of the prosecution is accepted at this stage that there were illicit relations between applicant and wife of the deceased, in absence of any material brought on record to

show that the deceased was harassed and was instigated to commit suicide, at least at this stage, the offence punishable under Section 306 of IPC, particularly for want of evidence of abetment is not attracted. Applicant's liberty was protected by interim order. There is nothing to show that he has misused the liberty.

8. In such circumstances, application stands allowed on the same conditions as per the interim order.

[R.M. JOSHI, J.]

SPChauhan