

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
BENCH AT AURANGABAD

ANTICIPATORY BAIL APPLICATION NO. 812 OF 2023

Dnyaneshwar Kisan Pawar ...Applicant

Versus

The State of Maharashtra & Anr ...Respondents

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Mr. V. B. Modan, Advocate for the Applicant.

Mr. V. S. Badakh, APP, for the Respondent – State.

Mr. S. G. Nandedkar, Advocate to Asst. to P.P.

CORAM : R.M. JOSHI, J.

RESERVED ON : JUNE 12, 2023

PRONOUNCED ON : JUNE 14, 2023

ORDER

1. Applicant apprehends arrest in connection with FIR No. 96/2023 registered with Begumpura Police Station, Aurangabad for the offence punishable under Section 306 of Indian Penal Code.

2. Smt. Lalita Jadhav, informant, reported to the police that her daughter Kalpana was working as a Naurse/Sister at GHATI Hospital. On 26.04.2023 she came to Nanded to meet her mother and thereafter went back to Chhatrapati Sambhajinagar on 30.04.2023. On 01.05.2023 informant, her son and Kalpana chitchatted for sometime and thereafter they went to sleep. After

sometime, it was found that though Kalpana has gone to the bathroom she did not return in reasonable time and therefore, the door broke open and it was found that Kalpana was in an unconscious condition. It was also seen she has injected something to herself. She was taken to GHATI Hospital wherein she was declared dead. It was alleged by informant that Applicant was working as brother in the GHATI Hospital and that Kalpana had informed her about he causing physical and mental harassment to her. She also told informant that Applicant had given false promise of marriage and thereafter since he married to someone else, she was under mental pressure. An incident dated 24.04.2023 is also mentioned in the report stating that Applicant had insulted deceased in front of others. She has also stated that in the mobile phone of deceased, it was found that she had send messages to herself disclosing harassment caused to her by the Applicant.

3. Learned Counsel for the Applicant states that apparently it is a case where there was physical relationship between two adults. It is contended that though the marriage of the Applicant was performed in

the year 2018 and this fact was known to the deceased, still she continued to be in the physical relationship with him, then it does not stand to reason why on false of marriage Applicant has sexual relationship with her. With regard to incident dated 24.04.2023 it is stated that every act including quarrel will not amount to abetment to commit suicide. Thus, according to him, it is a fit case wherein liberty of the Applicant needs to be protected.

4. Learned APP and learned Counsel for the informant opposed grant of anticipatory bail to the Applicant on the ground that the messages sent by the deceased to herself are sufficient to indicate that there was mental and physical harassment caused to the deceased by the Applicant. It is contended that she has also stated that she is driven to commit suicide and also stated that her recording is done. Relying upon these two statements it is contended that there is evidence to show that the deceased was harassed and pressurized and which has led her to commit suicide. It is also argued that Applicant had obtained money from the deceased from time to time and that he did not

return the said amount and this has also becomes cause to commit suicide. Learned APP however from the material on record has stated that inspite of returning Rs. 2 lacs to the deceased an amount of Rs. 5 lacs was due from Applicant. Reference is also made to the incident dated 24.04.2023 which according to them has caused insult to the deceased. Thus, it is their case that in the present case custodial interrogation of the Applicant is necessary.

5. Though it is unfortunate that the deceased lady had committed suicide, however, bare perusal of the messages send by the deceased to herself indicate her frustrated mind more than she being pressurized. No doubt, it is stated that she was instigated to commit suicide and that her recording was also done, however, except bare these two statements which are made after deceased appears to have made up her mind to commit suicide, no further particulars are provided nor any material is there on record to support it. This aspect becomes relevant in view of the fact that the Applicant was married in the year 2018 and that the said fact was within the knowledge of the informant. It appears that

in spite of same she maintained physical relations with Applicant. From the date of marriage of Applicant long period of five years has lapsed. The record further indicates that deceased has also advanced money to the Applicant. This fact indicates their cordial relations for substantial period. Knowledge of the deceased about the marriage of the Applicant in the year 2018 indicates that at least at this stage that it is difficult to accept that physical relationship was maintained by Applicant for about five years after his marriage with false promise of marriage to deceased.

6. As far as incident dated 24.04.2023 is concerned, statement of matron of the hospital shows that Applicant and deceased were quarreling on the road outside the hospital and they were called and given understanding not to behave in such manner. No witness states anything about subject matter of quarrel between them as no one heard it. Record further indicates that undertaking was obtained from both about maintaining proper conduct on the premises. There is no material on record to indicate that on 24.04.2023 Applicant had insulted the deceased and which has led her to commit

suicide. Considering the long relationship between the Applicant and deceased an incident of quarrel between them cannot be treated as abetment. As far as statement about recording of the deceased is concerned, Applicant can be directed to submit mobile phones held by him from 2018 onwards to the investigating officer to carryout further effective investigation.

7. Having regard to the entire facts and circumstances, it is a fit case that liberty of Applicant is protected by imposing appropriate conditions.

8. Hence, the order:

O R D E R

(i) The Application stands allowed.

(ii) In the event of arrest of the Applicant in connection with FIR No. 96/2023 registered with Begumpura Police Station, Aurangabad for the offence punishable under Section 306 of Indian Penal Code, he shall be released on bail on furnishing PR bond of Rs. 15,000 (Rupees Fifteen Thousand Only) with one solvent surety in the like amount.

(iii) He shall attend the concerned police

station once in a week and to cooperate the investigating agency for further investigation.

(iv) He further directed to handover all mobile phones used by him since the year 2018 till date to the Investigating Officer on 15th June, 2023.

(v) He shall not interfere in evidence or contract any witness in any manner whatsoever.

(R.M. JOSHI, J.)

Malani