

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION**

ANTICIPATORY BAIL APPLICATION NO.2282 OF 2023

Deepak Sambhaji Kale

...Applicant

Versus

The State of Maharashtra

...Respondent

...

Mr. Sandip Kagade for the Applicant.

Mr. S.V. Gavand, APP for the Respondent -State.

Mr. S.R. Shaikh, PSI, Mangalvedha Police Station, Solapur (rural), present.

CORAM: SMT. ANUJA PRABHUDESSAI, J.

DATED: 17th AUGUST, 2023.

P. C. :-

1. This is an application under Section 438 of the Cr.P.C. filed by the aforesaid Applicant apprehending his arrest in C.R. No.293 of 2023 registered with Mangalvedha Police Station, District-Solapur (rural) for the offences punishable under Sections 306, 323, 384, 504 and 506 r/w 34 of the IPC.

2. Heard Mr. Sandip Kagade, learned counsel for the Applicant and Mr. S.V. Gavand, learned APP for the Respondent -State. I have perused the records and considered the submissions advanced by the learned counsel for the respective parties.

3. The aforesaid crime was registered pursuant to the FIR lodged by Deepak Dhavare, the brother of deceased-Hanmant Dhavare. The facts narrated in the FIR prima facie reveal that the deceased had left the house on 03/04/2023. Since he did not return home, his wife lodged a missing report on 06/04/2023. On 07/04/2023, body of the deceased was found hanging on a tree in the nearby field. The First Information Report came to be lodged on 18/04/2023 alleging that the deceased had extra marital relationship with the daughter of the co-accused -Sambhaji Kale, who constantly abused and threatened him and further demanded an amount of Rs. 50,000/- to resolve the dispute. It is further stated that the deceased was also facing trial in a murder matter and that he was released on bail. The First Informant has alleged that the co-accused Bharat Annappa Dhavare, Annappa Bharat Dhavare, Nagnath Bharat Dhavare, Milind Bhimrao Dhavare had threatened to cancel his bail and to implead him in a false case. It is stated that the deceased was under tremendous mental pressure because of threats given by the co-accused.

4. It is not in dispute that neither the deceased nor the First

Informant had lodged any prior complaint against the co-accused Sambhaji or Dhavare family for issuing threats or demanding money. The allegations in the FIR even if accepted in their entirety, would not prima facie constitute abetment under Section 107 of the IPC. It is stated that investigation is completed and charge-sheet has been filed. In such circumstances, this is a fit case to exercise discretion under Section 438 of the Cr.P.C.

5. Hence, the application is allowed on the following terms and conditions:-

(i) In the event of arrest of the Applicant in C.R.

No.293 of 2023 registered with Mangalvedha Police Station, District-Solapur (rural) he is ordered to be released on bail on executing PR bonds in the sum of Rs.25,000/- with one or two sureties in the like amount.

(ii) The Applicant shall report to the concerned Investigating Officer for a period of two days i.e. on 21/08/2023 and 22/08/2023 between 11.00 a.m. to 2.00 p.m. and shall co-operate with the investigation;

- (iii) The Applicant shall not tamper with the prosecution evidence and or influence the witnesses in any manner;
- (iv) The Applicant shall keep the Investigating Officer informed of his current address and mobile contact numbers, and /or change of residence or mobile details, if any, from time to time.

6. Application stands disposed of.

(SMT. ANUJA PRABHUDESSAI, J.)