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

ANTICIPATORY BAIL APPLICATION NO. 914 OF 2023

Naraindas Thanwerdas Dodeja

Age about : 72 Years, Occu. : Nil,

Residing at : B.K. No. 942,

Room No. 30, Section – 21,

Ulhasnagar – 421001, Dist. : Thane.

...Applicant

vs.

The State of Maharashtra

[Through Ulhasnagar Police Station

Thane]

...Respondent

Mr.Ganesh Gole a/w Mr.Dadlani i/b. Mr.Ateet Shirodkar – Advocate
for Applicant.

Mr.H.J.Dedhia – APP for the Respondent-State.

Mrs.Manisha K. Kerwani – Advocate for Original Complainant.

CORAM : S. M. MODAK, J.

DATE : 6th APRIL, 2023

P. C. :-

1. Heard learned Advocate for the Applicant, learned Advocate
for the First-Informant and learned APP for the Respondent-State.

2. In the midst of the argument by learned Advocate for the
Applicant-Accused, learned Advocate for the First-Informant

submitted that she wants to file an affidavit of the father of the deceased and sister of the deceased. She has submitted those affidavits. Though at the beginning, learned Advocate for the Applicant was kind enough not to insist for filing of an Intervention Application on behalf of the First-Informant, at the end he submitted that the procedure needs to be followed. Learned Advocate for the First-Informant undertakes to file Vakalatnama within a week.

3. Those affidavits are taken on record. It is true that the procedure needs to be followed, however, considering the circumstances, this Court has taken those affidavits on record and permitted learned advocate for the first informant to argue the matter. Though she has shown certain photographs in which the present Applicant is also shown, they are part of charge-sheet and hence, returned. They can be referred during arguments.

4. The anticipatory bail is asked for on two grounds. One is on the ground of parity as the Co-accused Suresh Manchundaya was granted anticipatory bail by this Court in ABA No.310 of 2023 dated 8th February, 2023 and it is contended that his role and that of the present Applicant are similar. Apart from that, bail is asked for also on the ground of merits.

5. It is contended that in fact, the deceased and the arrested Accused – Pawan, they are the main parties and the role of the present Applicant is a secondary. There was an engagement ceremony in between the deceased Harshita and the arrested Accused – Pawan performed on 31st July, 2022. Whereas, she put an end to her life on 14th December, 2022 in the house of her parents at Ulhasnagar by hanging. Earlier to that, there was a meeting on 12th November, 2022 in the house of her parents for deciding the modalities for marriage. It was attended by the parents of Pawan and other relatives and one of them is the present Applicant who is the grandfather of arrested Accused – Pawan.

6. The sum and substance of the allegations is that the Accused persons were responsible for the suicidal death of the deceased. According to the First-Informant, who is the father of the deceased, initially, there was no demand of dowry and other articles and the engagement ceremony was performed smoothly and both the deceased and the arrested Accused have met each other on several occasions and the relationship in between them had gone to such a stage that the deceased started feeling some pregnancy feature. Though it was not confirmed. However, when meeting was held on

12th November, 2022, the relatives of Pawan have started showing their real colour and they have made various demands and they have insisted that unless they are fulfilled, the marriage will not be performed. There are certain utterances attributed to the Applicant specifically.

7. As the deceased has put to an end to her life, on the complaint of father, an FIR is registered under Sections 306 read with 34 of the Indian Penal Code, 1860 [“IPC”] and under Section 4 of the Dowry Prohibition Act, 1961 [“DP Act”]. Pawan is arrested. Learned Advocate for the First-Informant and learned APP pointed out various circumstances and it is contended that in fact, deceased Harshita was determined to marry Pawan and she was impressing upon her parents to go on with the marriage. There are certain messages sent by the deceased to one Tarun Talreja who is friend of arrested Accused – Pawan. Those copies are filed on Page No.178 to Page No.199. My attention is invited to few of the messages by both the sides. The relevant messages are on Page No.178, 180, 182 and 199. In respect of those messages, it is submitted that in fact, it nowhere connects the present Applicant.

8. The Investigating Agency has tried to collect certain evidence

in the digital form. It consists of mobile handset of the deceased and mobile handset of the arrested accused. The relevant panchanamas are on Page No.98 about victims mobile and on Page No.101 about the arrested Accused mobile. There is an allegation that certain photographs of the deceased and the arrested Accused in a nude form are found in the mobile handset of the arrested Accused, but now, they are deleted. The Agency has sent those mobile handsets to the analysis of Forensic Expert. Certainly, it will take time.

9. There is also an argument made about one instagram account in the name of *priya1480*. It is contended on behalf of the First-Informant that during lifetime of Harshita, certain messages are received on this instagram account and soon after the death of Harshita, it has stopped, yet the Police are not knowing the password of that account and there is correspondence made on Page No.305. Certainly, it is bound to take time. It is also true that in two affidavits, there is no reference of this instagram account.

10. It is also true that in the statements recorded of the relatives of the deceased annexed to the charge-sheet, there are no references of this instagram account. Court has considered these allegations so as to ascertain whether the involvement of the present Applicant can be

verified.

11. There is suicidal note on Page No.109. Both the sides have read it. There is no dispute that there is no reference of the present Applicant in it. Even though it may be true that both the deceased and the arrested Accused have developed the relationship and even though it may be true that after some point of time, there were differences of opinion, both of them are responsible for that. From the record, it nowhere discloses that so far spoiling of their relationship, there is involvement of this Applicant.

12. Only circumstance pointed out to show the involvement of the present Applicant is in the meeting dated 12th November, 2022. It was on the occasion of deciding the modalities of the marriage. It is true that there is specific utterance uttered by this Applicant. It suggests that the family of the deceased is poor and there cannot be a marriage with them unless and until the demands are fulfilled. It is also true that the co-accused Suresh Manchundaya who is granted anticipatory bail by this Court was also present in that meeting. There are also certain role assigned to him. It is also true that the suicidal note was given after this meeting. It is also true that after this meeting of 12th November, 2022, she has put an end to her life

on 14th December, 2022.

13. After considering all the materials, this Court feels that the Applicant can be granted anticipatory bail. Because, the role alleged against him is only about utterances made in that meeting dated 12th November, 2022. So far as the relationship in between the deceased and the arrested Accused is concerned, there may be various angles for the Investigating Officer to investigate. However, from the materials, it discloses that the Applicant has come in picture on 12th November, 2022 only. Pawan is already arrested and there is charge-sheet filed against him.

14. The law on the point of abetment of suicide is very clear. In various judgments, the Hon'ble Supreme Court has interpreted what is the meaning of 'instigation', 'conspiracy' and 'aiding' being the ingredients for abetment of suicide.

15. So, this Court feels that case is made out for grant of anticipatory bail. I do not find that custodial interrogation is required. He can be put to conditions to attend the Police Station.

Hence, following order :-

ORDER

- (i) Application is allowed.
- (ii) In case of arrest in connection with C.R.No. 584 of

2022 registered with Ulhasnagar Police Station, under Sections 306 read with 34 of IPC and under Section 4 of Dowry Prohibition Act, the Applicant be released on furnishing Personal Bond and Surety Bond of Rs.25,000/-.

- (iii) Applicant to give attendance to Ulhasnagar Police Station on Monday from 10.00 to 12.00 noon till filing of charge sheet against him.
- (iv) Applicant not to threaten the Prosecution witnesses or allure them in any manner.
- (v) In case of breach of any of the conditions, the bail of the Applicant is liable to be cancelled after notice.

16. It is made clear that the observations made herein are prima facie, and the trial Court shall decide the case on its own merits, in accordance with the law, uninfluenced by the observations made in this order.

17. Application is disposed of in the aforesaid terms.

18. All the parties to act on an authenticated copy of this order.

[S. M. MODAK, J.]