

Santosh

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

ANTICIPATORY BAIL APPLICATION NO. 3193 OF 2023

SANTOSH
SUBHASH
KULKARNI

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Sujata Sharad Ahire ...Applicant
Versus
The State of Maharashtra ...Respondent

Mr. Amey Deshpande, a/w Harsh Nishar, for the Applicant.
Mr. S. H. Yadav, APP for the State/Respondent.

CORAM: N. J. JAMADAR, J.
DATED: 9th NOVEMBER, 2023

ORDER:-

1. Heard the learned Counsel for the applicant and the learned APP for the State.
2. This is an application for pre-arrest bail in connection with CR No.489 of 2023, registered with Panchvati Police Station, Nashik, for the offences punishable under Sections 306 and 498-A read with Section 34 of Indian Penal Code, 1860 ("the Penal Code").
3. The deceased was the daughter of the first informant. Her marriage was solemnized with accused No.1 on 24th November, 2015. The applicant is the mother of accused No.1. The deceased died by suicide on the night intervening 1st and 2nd October, 2023.

4. The first informant lodged report with the allegation that after three months of marriage, accused No.1 started to harass the deceased. Accused No.1 was making unlawful demand of money to pay the home loan EMI. The first informant further alleged that even the applicant also subjected the deceased to harassment. The deceased used to narrate the incidents of ill-treatment to her. Unable to bear the ill-treatment, the deceased died by suicide.

5. The learned Counsel for the applicant submitted that the incident occurred on the night intervening 1st and 2nd October, 2023. FIR with false allegations came to be lodged on 11th October, 2023 after deliberations. It was submitted that there is material to show that the deceased was in a relationship outside marriage. Even otherwise, according to the learned Counsel for the applicant, a case of abetment of suicide cannot be said to have been made out qua the applicant.

6. The learned APP resisted the prayer for pre-arrest bail. I have carefully perused the allegations in the FIR. At this juncture, the Court may not delve into the assertions on the part of the applicant that the deceased was in a relationship outside marriage and, therefore, she was confronted.

However, from the perusal of the allegations in the FIR it becomes *prima facie* evident that the allegations of unlawful demand and consequent harassment are primarily attributed to accused No.1 the husband of the deceased. Accused No.1 had allegedly threatened to kill the deceased in the event she did not meet the unlawful demand of money. There is an omnibus allegation that the applicant also subjected the deceased to harassment.

7. In the aforesaid nature of the accusation, *prima facie*, there appears no direct or proximate acts or omissions on the part of the applicant, which can be construed as an instigation or intentional aid to commit suicide. I am, therefore, persuaded to exercise the discretion in favour of the applicant. Custodial interrogation of the applicant does not seem to be warranted. The applicant has a fixed place of abode. Possibility of fleeing away from justice seems to be remote. Therefore, I am inclined to grant interim protection in favour of the applicant.

8. Hence the following order:

: O R D E R :

- (i) In the event of arrest of the applicant in CR No.489 of 2023, registered with Panchvati Police Station, Nashik,

the applicant be released on bail on furnishing a PR Bond in the sum of Rs.30,000/- with one or two sureties in the like amount.

- (ii) The applicant shall cooperate with the investigation and attend Panchvati Police Station on 22nd, 23rd and 24th November, 2023 in between 10.00 am. to 1.00 pm.
- (iii) The applicant shall not tamper with the prosecution evidence and/or give threat or inducement to the first informant or any of the persons acquainted with the facts of the case.
- (iv) It is clarified that these *prima facie* observations are confined to determine entitlement to pre-arrest bail only.

Application stands disposed.

[N. J. JAMADAR, J.]