

**IN THE HIGH COURT OF JUDICATURE AT BOMBAY,
NAGPUR BENCH, NAGPUR**

**CRIMINAL APPLICATION (BA) NO.325/2023
Santosh s/o Haribhau Bharne and anr**

..VS..

State of Mah., thr.PSO PS Umarkhed, Taluka and District Yavatmal

.....
Office Notes, Office Memoranda of Coram,
appearances, Court orders or directions
and Registrar's orders

Court's or Judge's Order

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Shri Anil S.Mardikar, Senior Counsel with Shri D.P.Singh,
Counsel for Applicants.
Shri M.J.Khan, Additional Public Prosecutor for the State.

CORAM : URMILA JOSHI-PHALKE, J.

CLOSED ON : 07/06/2023

PRONOUNCED ON : 09/06/2023

1. By this application under Section 439 of the Code of Criminal Procedure, the applicants seek bail in connection with Crime No.155/2023 registered with Umarkhed Police Station, district Yavatmal for offence punishable under Section 306 read with Section 34 of the Indian Penal Code.

2. The applicants are arrested on 3.3.2023.

3. The crime is registered on the basis of report lodged by one Ravi Atmaram Jadhao on an allegation that deceased Kajal is his wife. As per the report, on 1.3.2023, the informant had been to Gram Wagad, taluka Mudkhed, district Nanded. At about 12:00 am, he received a phone call of his father who informed him that applicant No.1 Santosh s/o Haribhau Bharne entered into the room of his wife and was not opening the door.

Thereafter, applicant No.2 Dipak s/o Haribhau Bharne also came there under the influence of liquor. They both were saying that the deceased is prostitute. On 2.3.2023, he returned home and his wife disclosed him that applicant No.2 Dipak s/o Haribhau Bharne said that she is prostitute and insulted and humiliated her. He called both the applicants at his house. At the relevant time also, both the applicants abused them and called his wife as prostitute. After hearing the same, his wife expressed that both the applicants humiliated her and, therefore, she will do something and went in her bedroom. After some time, he opened the door of the bedroom and saw that the deceased had committed suicide by hanging herself. On the basis of the said report, the police have registered the offence.

4. Heard learned senior counsel Shri Anil S.Mardikar for the applicants and learned Additional Public Prosecutor Shri M.J.Khan for the State.

5. Learned senior counsel Shri Anil S.Mardikar for the applicants submits that there is no nexus between the abetment and the suicide. He submits that taking disadvantage, the deceased had committed suicide and due to the previous enmity the applicants were implicated falsely. In fact, there is no

material on record to show that the applicants abetted the deceased to commit suicide. According to him, investigation of the crime is completed and chargesheet is already filed. He submits that the crime is not punishable with life imprisonment or death penalty. The applicants are permanent resident of village Umarkhed, district Yavatmal. He submits that as the crime is not punishable with life imprisonment or death penalty, further custody of the applicants is not at all required and, therefore, they be released on bail. Moreover, he submits that if the applicants are released on bail, they will abide by conditions if the court imposes. Lastly, he prays that the application be allowed and the applicants be released on bail.

6. Learned Additional Public Prosecutor Shri M.J.Khan for the State vehemently submits that as the the deceased was insulted within the public view by saying that she is prostitute, she committed suicide. There is direct evidence to show the abatement by the applicants. *Prima facie* material sufficiently shows the involvement of the applicants. Hence, the application deserves to be rejected.

7. Having heard both the sides, perusal of statement *prima facie* shows that within the public view both the applicants insulted the deceased. Whether the said act amounts

to abatement or suicide or not is a matter of evidence. Now, investigation is completed and chargesheet is already filed. No purpose will be served by keeping the applicants behind the bars. Considering the allegations, the witnesses are family members of the deceased and, therefore, question of tampering evidence does not arise.

8. In view of the above and considering the fact that investigation is completed and chargesheet is filed, further custody of the applicants is not warranted and he can be released on bail by imposing certain conditions. Hence, I proceed to pass following order:

ORDER

(1) The criminal application is allowed.

(2) Applicant No.1 Santosh s/o Haribhau Bharne and applicant No.2 Dipak s/o Haribhau Bharne, in connection with Crime No.155/2023 registered with Umarkhed Police Station, district Yavatmal for offence punishable under Section 306 read with Section 34 of the Indian Penal Code, are released on bail on their executing P.R.Bonds in the sum of Rs.25,000/- by each of them with one solvent surety of the like amount.

(3) The applicants shall not directly or indirectly make any inducement and threat or promise to any of witnesses of the crime in question.

(4) Breach of any of the conditions imposed will give rise cause to the prosecution to apply for cancellation of the bail.

With this, the criminal application stands disposed of.

(URMILA JOSHI-PHALKE, J.)

!! BrWankhede !!